EXAMINING THE BIDEN ADMINISTRATION'S EFFORTS TO LIMIT ACCESS TO PUBLIC LANDS

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

Wednesday, May 24, 2023

Serial No. 118–32

Printed for the use of the Committee on Natural Resources

Available via the World Wide Web: http://www.govinfo.gov
or
Committee address: http://naturalresources.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE
52–418 PDF WASHINGTON : 2024

COMMITTEE ON NATURAL RESOURCES

BRUCE WESTERMAN, AR, *Chairman*
DOUG LAMBORN, CO, *Vice Chairman*
RAÚL M. GRIJALVA, AZ, *Ranking Member*

Doug Lamborn, CO
Robert J. Wittman, VA
Tom McClintock, CA
Paul Gosar, AZ
Garret Graves, LA
Aumua Amata C. Radewagen, AS
Doug LaMalfa, CA
Daniel Webster, FL
Jenniffer González-Colón, PR
Russ Fulcher, ID
Pete Stauber, MN
John R. Curtis, UT
Tom Tiffany, WI
Jerry Carl, AL
Matt Rosendale, MT
Lauren Boebert, CO
Cliff Bentz, OR
Jen Kiggans, VA
Jim Moylan, GU
Wesley P. Hunt, TX
Mike Collins, GA
Anna Paulina Luna, FL
John Duarte, CA
Harriet M. Hageman, WY

Grace F. Napolitano, CA
Gregorio Kilili Camacho Sablan, CNMI
Jared Huffman, CA
Ruben Gallego, AZ
Joe Neguse, CO
Mike Levin, CA
Katie Porter, CA
Teresa Leger Fernández, NM
Melanie A. Stansbury, NM
Mary Sattler Peltola, AK
Alexandria Ocasio-Cortez, NY
Kevin Mullin, CA
Val T. Hoyle, OR
Sydney Kamlager-Dove, CA
Seth Magaziner, RI
Nydia M. Velázquez, NY
Ed Case, HI
Debbie Dingell, MI
Susie Lee, NV

Vivian Moeglein, *Staff Director*
Tom Connally, *Chief Counsel*
Lora Snyder, *Democratic Staff Director*
http://naturalresources.house.gov

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

PAUL GOSAR, AZ, *Chairman*
MIKE COLLINS, GA, *Vice Chair*
MELANIE A. STANSBURY, NM, *Ranking Member*

Matt Rosendale, MT
Wesley P. Hunt, TX
Mike Collins, GA
Anna Paulina Luna, FL
Bruce Westerman, AR, *ex officio*

Ed Case, HI
Ruben Gallego, AZ
Susie Lee, NV
Raúl M. Grijalva, AZ, *ex officio*

CONTENTS

OVERSIGHT HEARING ON EXAMINING THE BIDEN ADMINISTRATION'S EFFORTS TO LIMIT ACCESS TO PUBLIC LANDS

Wednesday, May 24, 2023
U.S. House of Representatives
Subcommittee on Oversight and Investigations
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 10:04 a.m. in Room 1324, Longworth House Office Building, Hon. Paul Gosar [Chairman of the Subcommittee] presiding.

Present: Representatives Gosar, Rosendale, Collins; Stansbury, Gallego, Lee, and Grijalva.

Dr. GOSAR. The Subcommittee on Oversight and Investigations will now come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee is meeting today to hear testimony on examples of the Biden administration's efforts to limit access to public lands.

I ask unanimous consent that all Members testifying today be allowed to sit with the Subcommittee, give their testimony, and participate from the dais. I ask that the gentlewoman from Wyoming, Ms. Hageman, be allowed to sit with the Subcommittee at today's hearing. I also ask that the gentleman from California, Mr. LaMalfa, be allowed to sit with the Subcommittee and participate in the hearing.

Without objection, so ordered.

Under Committee Rule 4(f), any oral opening statements at the hearing are limited to the Chairman and the Ranking Member.

I therefore ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with the Committee Rule 3.

Without objection, so ordered.

STATEMENT OF THE HON. PAUL GOSAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Dr. GOSAR. Thanks again to all the members and witnesses for their time today.

This is a very important issue not only in Arizona, but for all who have an interest in our public lands.

I would especially like to thank Chairman Lingenfelter for coming from Kingman today. I know you had to take a red-eye to get here. In fact, it sounds like you all had to do the same thing to make it here. It is appreciated.

Everyone on the panel today is serving their local or state government in some capacity, either elected or appointed, and, for

the most part, while also running a second business by doing what they call another day job at the same time. I know this can be thankless work, but county and state governments have the pulse of our communities, so we thank you for your service.

This weekend, at the invitation of Ranking Member Grijalva and Senator Sinema, Secretary Haaland toured the Grand Canyon's south rim to discuss a proposal—now I am going to say this, and hopefully not hack it up so much—Baaj Nwaavjo I'tah Kukveni Grand Canyon National Monument. I butchered it, I am sure.

While I am generally in the business of encouraging visitation to the Grand Canyon and Arizona's public lands, Secretary Haaland and my friends on the other side of the aisle apparently like to keep their tours a bit more exclusive. During this particular visit, they failed to include those who represent the local communities, including officials from Mohave County, who would have been impacted most by the designation of yet another national monument in the state of Arizona.

Instead, elected officials from communities much farther away, known to be friendly toward both the Secretary and this proposed designation, were invited to attend. Nothing about this is surprising and, in fact, tracks with the manner in which the Biden administration continues to lack transparency and expand the power of the executive branch, and ignore the will of the people, all while espousing grandiose ideas like social and environmental justice that far too often leave our rural communities further behind.

Time and again, this Administration, whether through monument designations or through the recently proposed BLM conservation and landscape health rule, is looking for ways to slowly restrict access to our lands. It is a bit like the old frog in the pot of boiling water. At first you are just in cold water, nothing to see here, just a small monument designation with 100 percent support from the stakeholders. A great thing, right? Before you know it, the frog is boiling, Americans have lost access to nearly all Federal lands for permitted activities like hunting, grazing, snowmobiling, timber harvesting, mining, and oil and gas leasing.

While this might seem like a reach, it is our responsibility in this Committee to prevent the proverbial frog from boiling. I can tell you that my constituents are very concerned about access. They are worried about this frog boiling. They do not want another national monument to block access to their favorite hunting spots, to draw away from development and tourism in far northern Arizona, and perhaps, more importantly, the opportunity to provide critical minerals and careers in underserved communities in our state in an environmentally sound manner, free from Chinese influence and unsound labor practices.

My constituents and stakeholders in Arizona are also worried about the proposed BLM conservation and landscape health rule that we will discuss here today. This proposed rule would fundamentally change the way the BLM carries out its multiple use and sustained yield mandates without, I may add, authorization from Congress, a very important detail.

In response, stakeholders across the industries and across the country have expressed concern that the Biden administration will

use this rulemaking to determine that currently-permitted activities on BLM lands such as grazing, energy production, and recreation are incompatible with the conservation lease or areas identified as intact landscapes.

Despite what is being labeled as a seismic shift in land management by the media, BLM cannot answer basic questions about the proposed rule. Sadly, BLM's ignorance on implementing this proposed rule is not a surprise, given the lack of stakeholder engagement, its development, as well as its limited time frame for comments and feedback.

Since his first day in office, President Biden has abused the authority of the Antiquities Act to add large swaths of acreage to the Federal estate, reducing public access in the process. Instead of adding to the Federal estate, as these proposals suggest, we should be discussing the real issue at hand: the multiple use and sustained yield doctrine as authorized by Congress. Over time, the executive branch continues to slowly but surely chip away at this doctrine. The result? Our local states, counties, and communities are paying the price.

Do you think that search and rescue, fire service, or schools in rural areas are free? No, they are not. Do you enjoy hunting or riding an e-bike on a nice trail? Good luck with that.

I will do you one better. I bet every single person in this room uses a cell phone. These phones require components that must be mined. And I would argue that we can do that better here in the United States than they do in China.

We can hardly afford the upkeep on our vast Federal estate as it is. Former Democratic Majority Leader Harry Reid once fought hard to enact the Southern Nevada Public Land Management Act, which sold off excess BLM lands in his home state and reinvested the proceeds into Nevada State Educational Fund, conservation projects, preservation of sensitive areas, and unlocked Las Vegas. I would make the argument that, if this is good enough for Harry Reid, it should be good enough for us.

I would argue the Biden administration to work with Congress to once again look at this model, rather than to use their time in attempting to unlawfully circumvent Congress to rewrite FLPMA, expand its mandate, and restrict the Americans' public access and use of Federal lands.

With that, I will recognize Ranking Member Stansbury for her statement.

STATEMENT OF THE HON. MELANIE A. STANSBURY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Ms. STANSBURY. Thank you, Mr. Chairman. I too want to welcome all of our witnesses who are here with us today.

We know you traveled at great lengths to get here, and we are really grateful that you are able to be with us. Hearing from individuals across our communities who represent states and local governments is, indeed, very important.

But I will note, as we are getting started on this hearing, that this is an oversight hearing over, primarily, a BLM rule. And I think it is noticeable to note that BLM is actually not present in

the room because they were not invited. So, while it is important to hear from our communities, I think in our oversight role it is also important to hear from the agencies themselves.

We all have places that are important and even sacred to us. For me, in my hometown of Albuquerque, New Mexico, it is the Sandia Mountains, which I live near. For many of our communities, these spaces are not only important to their cultures, to their history, but also to the continuation of their identities as people.

For Indigenous communities, it is places like Chaco Canyon, Bears Ears, and Oak Flat. For our land grants and other communities that use these lands as working lands, they are important places to gather firewood for sustaining ranching and for other resource needs.

And, of course, these lands are vital to the continued conservation not only of special places, but also the lands, water, and habitat that sustain us on this planet. And that is really what is at the heart of today's conversation.

Our communities began a movement more than a century ago to manage our lands at scale. The goal of this management was to make sure that we were preserving those important places and sustainably managing those so that we could ensure the integrity of those landscapes.

To manage these places effectively at scale, we need the best science, the best management tools, and the best ability to collaborate at the local level. That includes working with Federal, state, and tribal policies, through grants and partnerships, tribal co-management, sustainable stewardship, and public-private partnerships with private landowners.

To help provide the Federal Government with these tools and make clear that the lands were to be managed for multiple uses, Congress passed the Federal Land Policy Management Act in 1976. And while Congress mandated the lands be managed for multiple uses, conservation has long been pushed aside. In fact, 90 percent of all lands managed by the Bureau of Land Management—which I will note were actually Indigenous lands long before the United States arrived—are actually open for oil and gas leasing. Most BLM lands are also open to hardrock mining, and more than 60 percent of BLM lands are leased for grazing.

Up until now, there has not been an effective mechanism to also ensure effective landscape level and conservation needs. BLM's proposed rule, which we are here to discuss today, will help to fulfill the congressional mandate of multiple use by creating conservation leases. By allowing Federal lands for mitigation of harms from other developments like energy infrastructure and other development, the rule will help to accelerate transitions to renewable energy, while encouraging restoration of sensitive lands and protection of cultural landscapes. It is helpful for land managers, as well.

As we will hear today from our various witnesses—and I especially want to welcome the one and only Stephanie Garcia Richard, who is the Commissioner of Public Lands from New Mexico. New Mexico has boldly initiated a pilot conservation leasing program of its own under her leadership. And like so many other things, New Mexico is leading the way, thanks to leaders like Ms. Garcia Richard.

Another Federal land management tool which we are going to discuss today is the Antiquities Act. When Congress has failed to act, 17 of the last 21 Presidents, including the previous administration, have used the authorities under the Antiquities Act to create 161 monuments. These monuments include iconic landscapes that we cherish. In New Mexico, it is places like Chaco Canyon, El Moro, Gila Cliff Dwellings, and Tent Rocks, places that are not only beautiful but sacred and culturally important. Nationally, it is the Grand Canyon, Olympic Park, Natural Bridges, and Devils Tower.

These are places that are not only sacred and important, they are part of the iconic landscapes that define us as a country. And the Antiquities Act is a crucial land management tool to help ensure that we are able to protect these lands.

The public lands rule that we are discussing here today will help to bring us closer to the goal of a climate-resilient, ecologically intact, and culturally preserved landscape. It will correct biases in current practices which Congress intended when it passed the Federal Land Policy and Management Act (FLPMA) and, along with the Antiquities Act, which is widely popular across the West, will help to protect sacred places and ensure that we are preserving these landscapes that are important for our communities for generations to come.

And with that, I yield back.

Dr. GOSAR. I thank the gentlelady. I just wanted to remind you, you do have a witness here. There was no suggestion of BLM. They were here last week, and if we would have had them, we would have added a second panel.

Now, I am going to introduce the witnesses. First of all, we have—going from left to right—Mr. Todd Devlin, Prairie County Commissioner; then Dr. J.J. Goicoechea, Director of Nevada Department of Agriculture; third, Ms. Stephanie Garcia Richard, New Mexico Commissioner of Public Lands; and then, from my own district, the Honorable Travis Lingenfelter, Chairman of the Mohave County Board of Supervisors.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please push the "on" button on the microphone.

You will see timing lights appear. When you begin, the light will turn green. At the end of the 5 minutes, the light will turn red. I will ask you to try to complete your statement at that time.

I will also ask and will allow all witnesses to testify before Member questioning.

I now recognize Mr. Devlin for 5 minutes.

STATEMENT OF THE HON. TODD DEVLIN, PRAIRIE COUNTY COMMISSIONER, TERRY, MONTANA

Mr. DEVLIN. Chairman Gosar, Ranking Member Stansbury, and members of the Oversight and Investigations Subcommittee, thank you for the opportunity to testify at today's hearing on the Bureau of Land Management's proposed public lands rule.

My name is Todd Devlin, and I have served as the Commissioner in Prairie County, Montana since 1995. I am past President of the Montana Association of Counties, and currently serve as Chairman of the National Association of Counties Public Lands Steering Committee. I am testifying today as a Prairie County Commissioner on behalf of the Montana Association of Counties.

Prairie County is in eastern Montana, with a population of 1,100. Our economy is reliant on agriculture, especially public lands grazing, with some oil and gas development and some seasonal hunting. The BLM manages 430,000 acres in Prairie County, or 43 percent, including a 45,000-acre wilderness study area and a few areas of critical environmental concern. Use of these lands is critical for our existence.

The proposed rule from the BLM would fundamentally change the BLM's multiple-use mandate under FLPMA without the necessary initial input from state and county governments, private industry, recreationalists, and impacted stakeholders. Proposing a rule with such drastic implications for the land and resource management across the West with a 75-day comment period, treats the concerns of intergovernmental partners as second tier.

BLM should withdraw the rule or, at a minimum, extend the public comment period to 180 days.

Furthermore, the BLM's public sessions must also be expanded to allow the public to offer verbal comments, rather than selecting questions submitted as they wish to address.

This effort to re-implement FLPMA should also be subject to the NEPA process. This would require the Federal Government to treat state, county, and tribal governments as cooperating agency status in the development of the rule from the beginning, and mandate the issuance of an EIS. The new conservation easement leases and expanded opportunities to create ACECs, Areas of Critical Environmental Concern, will impact all aspects of land management in the implementation of BLM's multiple-use mandate.

Major changes in FLPMA implementation should be subject to thorough environmental analysis, including potential economic impacts, just as BLM conducts when studying specific projects.

The proposed rule would completely change the way ACECs are designated by the BLM. FLPMA mandates that ACECs can only be designated when the resource management plan is finalized or amended. The proposed rule would grant the BLM the authority to manage lands of unlimited acreage as ACECs without the requirement of a new or updated RMP. This gives the BLM new ability to create de facto wilderness study areas of any size without the input of state and county governments by sidestepping the RMP establishment or revision process mandated under FLPMA.

Another key concern from the public lands rule is the vague definition of intact landscapes. BLM's unclear definition, combined with the proposed rule mandate to analyze landscapes for protection from activities that negatively impact them. This would encapsulate untold millions of acres around the United States as intact landscapes, and potentially disrupt necessary actions to make our landscapes and watersheds healthy and resilient, as well as further restricted uses.

The final component of the proposed public lands rule is the new authority to grant conservation leases. This could severely limit the active management to combat invasive species, improve forest health, limit the feasibility of livestock grazing, restrict infrastructure maintenance, or even recreational opportunities on Federal lands, thus elevating conservation as a use above the rest of these critical aspects of the agency's mandate.

To put it blunt, the BLM is word-crafting in this proposed rule that would allow a new round of wilderness characteristics inventory that has been prohibited by FLPMA since 1991, and create de facto wilderness study areas.

Chairman Gosar, Ranking Member Stansbury, and Subcommittee members, thank you again for the opportunity to testify today, and I look forward to your questions.

[The prepared statement of Mr. Devlin follows:]

PREPARED STATEMENT OF TODD DEVLIN, PRAIRIE COUNTY, MONTANA COMMISSIONER

Chairman Gosar, Ranking Member Stansbury and members of the Oversight and Investigations Subcommittee, thank you for the opportunity to testify at today's hearing on the Bureau of Land Management's (BLM) proposed Public Lands Rule. I appreciate the chance to discuss this attempt to rewrite the Federal Land Policy Management Act (FLPMA) and the consequences it would have for public lands counties.

My name is Todd Devlin, and I have served as a Commissioner in Prairie County, Montana since 1995. I am Past President of the Montana Association of Counties and currently serve as Chairman of the National Association of Counties' (NACo) Public Lands Steering Committee. I am testifying on behalf of NACo.

The proposed rule from the BLM would fundamentally change the BLM's multiple use mandate under FLPMA without the necessary initial input from Congress, state and county governments, private industry, recreationists and other impacted stakeholders. Additionally, this proposed rule would exclude counties from land designation processes, includes vague definitions, and empowers the agency to approve conservation leases without acreage limitations which could limit critical vegetation management and infrastructure maintenance projects on federal lands. This rule will mandate the BLM manage for preservation rather than meet their multiple use mandate.

About Prairie County

Prairie County is in eastern Montana with a population of approximately 1,100. 43 percent of Prairie County is owned by the federal government with approximately 80% of our federal land falling under the jurisdiction of the Bankhead-Jones Farm Tenant Act of 1937. The federal government also owns 60 percent of our county's mineral rights. Prairie County also contains the 45,000-acre Terry Badlands Wilderness Study Area still sitting in limbo and a few Areas of Critical Environmental Concern (ACEC).

We work closely with the BLM on both their and the county's land use plans, as cooperating agencies during the NEPA process and on the environmental impact statements for protecting the Greater Sage Grouse and developing solar energy. Our economy is reliant on agriculture, especially public lands grazing, and some oil and gas development. Without the ability to wisely use these federal lands, Prairie County simply would not exist.

Intergovernmental Partnerships

The proposed rule was written behind closed doors without the necessary formal input from states, counties or impacted stakeholders. Proposing a rule with such drastic implications for land and resource management across the West with a 75-day comment period treats the legitimate concerns of states, counties, other intergovernmental partners and the public as second tier. BLM should withdraw the rule or, at a minimum, extend the public comment period to 180 days. Furthermore, BLM's public sessions must also be expanded to allow the public to offer verbal comments, rather than selecting questions by agency representatives that they desire to address.

The BLM also chose to issue this proposed rule under a categorical exclusion to avoid triggering the National Environmental Policy Act (NEPA) process, which would require the federal government to treat state, county and tribal governments as cooperating agencies in the development of the rule from the beginning and mandate the issuance of an environmental impact statement (EIS). BLM stated that the proposed rule's effects would be "too broad, speculative or conjectural." Even a surface-level reading of the proposed rule calls this justification into question, as the issuance of newly established conservation leases or expanded opportunities for the BLM to create areas of critical environmental concern (ACEC) will negatively impact all aspects of land management and the agency's multiple use mandate. Any attempt to rewrite FLPMA implementation in a wholesale manner should be subject to the most thorough environmental analyses, including potential economic impacts, just as the BLM would conduct when studying a specific project's impacts. Counties stand ready to work with BLM on ways to better conserve our lands and resources, but we deserve the chance to formally engage with the federal government from the beginning, especially when the wholesale reimplementation of federal law is in the balance.

Areas of Critical Environmental Concern (ACEC)

The proposed rule also completely changes the way ACECs are designated by the BLM. FLPMA mandates that ACECs can only be designated when a resource management plan (RMP) is finalized.[1] The proposed rule would grant the BLM the authority to manage proposed lands of unlimited acreage as ACECs without the requirement of an updated RMP.

This gives the BLM a new ability to create de facto Wilderness Study Areas of any size without the input of state and county governments by side-stepping the RMP establishment or revision process mandated by FLPMA. This is another example of the BLM bypassing the input of states, counties and the public. Counties are willing to work with BLM to develop a more standardized approach for ACEC designation, but any updated regulations must meet the statutory requirements of FLPMA.

Intact Landscapes

Another key concern with the proposed rule is the vague definition of "intact landscapes." BLM defines them as "an unfragmented ecosystem that is free of local conditions that could permanently or significantly disrupt, impair, or degrade the landscape's structure or ecosystem resilience, and that is large enough to maintain native biological diversity, including viable populations of wide-ranging species. Intact landscapes have high conservation value, provide critical ecosystem functions, and support ecosystem resilience."[2] This vague and unclear definition, combined with the proposed rule's mandate to analyze landscapes for protection from activities that negatively impact intact landscapes, would encapsulate untold millions of acres around the United States as "intact landscapes" and potentially disrupt necessary actions to make our landscapes and watersheds healthy and resilient. For example, will the BLM now prevent necessary fuels treatments on the landscape, such as the creation of firebreaks to stop the spread of wildfire, because the landscape would suddenly no longer be "intact?"

Furthermore, local BLM managers would be required to track disturbances to the landscape from BLM-authorized activities on a "watershed scale." However, according to the BLM's own Water Resource Program Strategy document, currently posted to the BLM's website, "The term watershed does not define a scale—thus, there is no such thing as 'watershed scale' analyses."[3] BLM expects its field staff to perform analyses the agency says in its public document cannot be conducted. If BLM plans to conduct watershed scale analyses—which their own strategy document says do not exist—would that give a downstream BLM office the ability to veto a valid permit under the jurisdiction of a separate upstream office? This is one of many parts of the proposed rule that are ripe for misinterpretation and inconsistency.

Conservation Leases

A final major component of the proposed rule is a new authority to grant conservation leases of up to 10 years and unlimited size to tribes, non-profits, individuals and private entities. Inexplicably, counties and states are excluded from

[1] 43 U.S.C. 1711(a)

[2] https://www.federalregister.gov/documents/2023/04/03/2023-06310/conservation-and-landscape-health

[3] https://www.blm.gov/sites/blm.gov/files/WaterResourceProgramStrategy.pdf

conservation leases. Counties work with BLM every day to meet our mutual goals of improving our landscapes and watersheds. As co-regulators and environmental stewards with extensive expertise in natural resources management, it is perplexing and damaging to federalism that counties and states are not included in this new effort.

While conservation leases may be an effective tool to support landscape and watershed health goals, the proposed rule not only grants them for terms of up to 10 years but ensures that no uses beyond those allowed by the conservation lease can be conducted on the landscape in question. This could severely limit opportunities to manage landscapes to reduce wildfire and invasive species threats, livestock grazing, infrastructure maintenance and even recreational opportunities on federal lands, while elevating conservation as a use above the rest of these critical aspects of the agency's mandate. Here, the BLM runs into another legal issue, as the U.S. Court of Appeals for the Tenth Circuit wrote in *Public Lands Council v. Babbitt* that relevant statutes, including FLPMA, do not allow for the issuance of permits "intended exclusively for 'conservation use.'" [4]

Conclusion

Chairman Gosar, Ranking Member Stansbury, and Subcommittee members, thank you again for the opportunity to testify. It is imperative that federal lands agencies coordinate and cooperate with state and county governments as mandated under federal law when proposing sweeping new regulations impacting our environment and economy. Counties look forward to working with our federal partners on ways to better implement FLPMA and improve ecosystem health and economic outcomes.

Dr. GOSAR. Thank you, Mr. Devlin. I now recognize Dr. Goicoechea for 5 minutes.

STATEMENT OF J.J. GOICOECHEA, DVM, DIRECTOR, NEVADA DEPARTMENT OF AGRICULTURE, SPARKS, NEVADA

Dr. GOICOECHEA. Thank you, Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee. My name is Dr. J.J. Goicoechea, and I am the Director of the Nevada Department of Agriculture.

Having previously served as a state veterinarian for nearly 5 years under two governors, I had my own mixed animal practice for nearly 25 years. In my career, I have held a wide variety of leadership positions in state and national agriculture organizations as a rancher and as a County Commissioner. For 10 years, I served three governors as Chairman of the Nevada Sagebrush Ecosystem Council. I have spent my life as my father, grandfather, and great grandfather did before me, stewarding the lands that today are part of my family ranch on lands managed by the BLM and United States Forest Service.

The Federal Government owns or manages more than 85 percent of the state of Nevada, which means that when the Federal agencies make rules or change policies, Nevada is often the bellwether for their success or failure. The BLM has the lion's share of these lands in Nevada at 63 percent.

The BLM's legal requirement to manage for multiple use is alive and well in Nevada: mining, agriculture, recreation, tourism, hunting, fishing, energy, and an abundance of environmental stewardship happens on these lands. Public access is a key component of successful multiple use.

---

[4] *Public Lands Council v. Babbitt*, 167 F.3d 1287 (10th. Cir. 1999)

Several of the agency's recent actions have made public access to multiple use much more difficult, if not altogether impossible. These policies also have the potential to compromise ecosystem health. I am concerned, if the BLM continues current trends they could be putting vast ecosystems at risk from reduced stewardship, and compromise their ability to do long-term landscape-level planning, all while compromising food security nationwide.

At the beginning of April, the BLM published the proposed rule that would change the way they operate in the West. The proposal adds an entirely new use to Federal law, and creates a never-before-seen leasing system. They proposed to change agency-wide regulations to evaluate land health and to codify the most restrictive management tool they have, ACECs. All this would be done through this proposal, which has had no advanced discussion or notification of stakeholders, no analysis under NEPA, and no economic analysis or interagency consultation because the BLM claims there will be no significant economic impact.

They also propose to do all of this without congressional authorization and a totally new use under FLPMA. The BLM claims that the proposal would put conservation use on par with other uses under FLPMA, but the rule doesn't level the field. It makes it so that conservation leases would be far more powerful than any other use. The proposed rule would give conservation and these lessees the ability to prevent other users from accessing and using public lands if the use is incompatible with the conservation lease.

It is also extremely concerning that the BLM currently doesn't see an interest in gathering the input necessary to improve the proposed rule. While I appreciate that one of the five public information sessions is in Nevada, I am concerned that in-person sessions are in locations that discourage input from people who actually use these landscapes, like my neighbors, who would have to drive more than 4 hours to ask a question. Ranchers in Washington, Oregon, California, Idaho, Montana, Wyoming, Utah, Arizona, and the Dakotas are simply out of luck, or will have to drive 10 or 12 hours. Even then, the BLM only appears to answer questions about their interpretation, not take comment or engage in dialogue.

The Nevada Department of Agriculture and our stakeholders want to have meaningful engagement on a proposed rule that will undoubtedly have generations of impact. Quite frankly, when you are not at the table, you can't help but feel that you are on the menu.

Unfortunately, this isn't a new trend, as we have heard. Earlier this year, the Biden administration designated a national monument without consultation with Governor Lombardo's administration, and his comments are in my written testimony.

The BLM has also taken other actions to make broad changes to the management. They are currently looking at an additional 25 gigawatts of energy on Federal land, and Nevada will play a significant portion. This is concerning for Nevada agricultural community, because solar developments largely require conversion of a multiple-use to a single-use landscape.

Public lands and agriculture are linked. The success of agriculture depends on access to BLM lands and keeping them

healthy. Agriculture is conservation, and that is the conservation this Committee needs to be defending. If grazing is removed from these landscapes, ranches will go under, landscapes will be taken over by invasive species, and will burn. Wildlife will suffer, and other multiple-use will become impossible. This will be crippling to Nevada, the West, and our country as a whole.

The BLM should not forge blindly ahead because they believe conservation leases can be a new business venture for them. Their business, their mission is to ensure they manage multiple-use and sustained yield long into the future.

I thank you for the time today, and will stand for questions.

[The prepared statement of Dr. Goicoechea follows:]

PREPARED STATEMENT OF JULIAN JOSEPH (J.J.) GOICOECHEA
ON BEHALF OF THE NEVADA DEPARTMENT OF AGRICULTURE

Chairman Gosar, Ranking Member Stansbury, and members of the subcommittee, my name is J.J. Goicoechea. After serving as interim state veterinarian in 2022, a position I held from 2016 to 2019, I was appointed by Governor Lombardo of Nevada to serve as the Director of the Nevada Department of Agriculture in January of this year. I had the opportunity to appear before another House Natural Resources' subcommittee in 2018, when I was Chairman of the Eureka County Board of County Commissions. I testified on issues related to the stewardship of public lands and how the decisions made by federal agencies have direct and lasting effects on people, communities, economies, and ecosystems in the West. It is my pleasure to appear before you today to discuss challenges of the same nature.

In addition to my current role as Director of Agriculture, I am a past president of the Nevada Cattlemen's Association, serve as a regional Vice President for the National Cattlemen's Beef Association, am a member of the Board of Directors of the Public Lands Council, and am a past board member of the Nevada Association of Counties. I served under three Governors on the Nevada Sagebrush Ecosystem Council, chairing that body for 10 years until my appointment as Director of Agriculture. I have operated a mixed animal veterinary practice for more than 20 years, and have spent my life—as my father, grandfather, and great-grandfather did before me—stewarding the lands that today are part of my family ranch and the lands managed by the Bureau of Land Management (BLM) and United States Forest Service (USFS).

When federal agencies develop policy or issue directives, Nevada is often the bellwether for its success—or failure. More than 85 percent of the state is owned or managed by the federal government. The BLM owns or administers more than 63 percent—48 million acres—of my home state. The remaining percentage can be attributed to the USFS, National Park Service, Department of Defense, the Bureau of Reclamation, and the U.S. Fish and Wildlife Service. This means that for the 3 million people who call Nevada home, and for the tourists who come to see more than the incomparable lights of Las Vegas, access and utility of those landscapes is managed by policies developed here in Washington.

Nevada is home to a productive mining sector, a diverse energy portfolio, and an agriculture industry that has weathered incredible hardship over the last several decades and continues to contribute more than $1 billion[1] to the state's economy annually. In Nevada, as is the case in much of the West, it is impossible to separate oil; natural gas; recreation; agriculture; hunting; fishing; solar, wind, and geothermal energy, and environmental stewardship from public lands.

To have success in any one of these spaces, federal policy must be predictable, consistent, and flexible enough to allow managers to adapt to changing conditions.

As a county commissioner, I managed people. As a rancher, I managed land and all the factors that affect land health. As a veterinarian, I managed animals—and the people making decisions about their pets and livestock. As a state official, I manage all these things. The BLM is tasked with similarly complex challenges: managing landscapes and the people who use them, for sustained productivity, and it is often the implementation of this directive that is the greatest source of conflict on federal lands.

[1] Nevada Department of Agriculture, 2017 Economic Impact Summary.

The Federal Land Policy and Management Act of 1976 (FLPMA) governs the BLM's administration of lands under their purview. After nearly a century of piecemeal management of each of the multiple uses of federal lands, FLPMA was enacted to coordinate the many uses of lands at that time, including mining, recreation, range, timber, minerals, watershed, wildlife, and fish.[2]

For the last 50 years, FLPMA has been amended by Congress and federal agencies have developed guidance to provide greater clarity on how the federal land managers should create a balanced multiple use landscape, but the underlying directive of the 1976 act has remained the same: manage these landscapes under the "multiple use" mission, meaning ". . . *the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people*."[3] Today, I'm here to share a few examples where the BLM has diverted from their FLMPA directive to the detriment of the landscape—as well as the present and future benefits of the American people. For the purposes and scope of today's discussion, I'd like to highlight three components of "public access" as directed under FLPMA:

- individual benefit—that is, the public's ability to access and directly benefit from landscapes;
- involvement in the planning process—stakeholders' ability to engage in the planning and management process to ensure agencies are maximizing benefit; and
- societal benefit—ensuring that agencies are considering all factors and optimizing the benefit to society writ large.

BLM Public Lands Proposed Rule

On April 3, 2023, BLM published a proposed rule entitled "Conservation and Landscape Health."[4] In the days immediately following the announcement of the rule, the contents have been described as a "seismic shift in lands management,"[5] as the proposed rule seeks to fundamentally alter the expectations of how multiple uses are balanced on public lands. The proposed rule seeks to codify and promote the agency's process around designating Areas of Critical Environmental Concern (ACECs), adds an entirely new use to the balance of uses managed under FLPMA, and establishes a new, non-competitive leasing system for conservation. The agency proposes to do all this without having advanced discussions or consultation with the State of Nevada, our local governments, and Nevada stakeholders and in failing to conduct analysis under the National Environmental Policy Act (NEPA).

Process—States, Stakeholders, and Public

The BLM has fundamentally failed to meet their statutory obligations under the regulatory process. Understanding the BLM is currently accepting comments on the proposed rule, the agency has been negligent in adequately consulting with the State, stakeholders, cooperating agencies, and the public in its development of this rule.

Stakeholders first learned that the agency was considering promulgating a rulemaking during publication of the semi-regulatory agenda this spring. Further hints were given in the White House's notice of summary action following President Biden's "Conservation Summit" at the Department of the Interior (DOI) on March 21, 2023.

Outreach to the BLM to determine what would constitute the "proposed rule that will . . .. Modernize the agency's tools and strategies for managing America's public lands"[6] yielded no information. Stakeholders, including the federal lands grazing community, received no advanced notice of publication. Similarly, the State of Nevada, despite the significant BLM footprint, broad impacts of such a rule on the State, and ongoing discussions about other BLM failures to collaborate, also received no advanced notice.

Advanced notice, consultation, and stakeholder engagement plays an essential role in drafting a durable rule. The BLM has mechanisms in place to conduct stakeholder outreach, such as issuing a Request for Information (ROI), an Advanced

---

[2] 43 U.S.C. § 1702(c)

[3] 43 U.S.C. § 1702(c)

[4] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19583–19604 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.)

[5] S. Streeter, "BLM proposes seismic shift in lands management", *E&E NEWS PM*, 2023, https://www.eenews.net/articles/blm-proposes-seismic-shift-in-lands-management/

[6] White House Fact Sheet: Biden-Harris Administration Takes New Action to Conserve and Restore America's Lands and Waters. March 21, 2023.

Notice of Proposed Rulemaking (ANPR), or a Notice of Intent (NOI) to accompany development of a NEPA analysis. The agency has elected to use these tools in a number of other regulatory changes to existing programs that affect significant swaths of public lands:

- Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Revision of Grazing Regulations for Public Lands, January 21, 2020
- Notice of Intent to Conduct a Review of the Federal Coal Leasing Program and to Seek Public Comment, August 20, 2021
- Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements, November 22, 2021
- Notice of Intent to Amend Multiple Resource Management Plans Regarding Gunnison Sage-Grouse (*Centrocerus minimus*), July 6, 2022
- Notice of Intent to Prepare a Programmatic Environmental Impact Statement to Evaluate Utility-Scale Solar Energy Planning and Amend Resource Management Plans for Renewable Energy Development, December 8, 2022

These actions are among the thousands of other examples when the BLM has elected to use an NOI to gather relevant information related to rulemaking prior to promulgating regulatory change.

Notably, in each of these cases, the proposed regulatory change was offered as part of a robust NEPA analysis. In most cases, the agency elected to use the most comprehensive NEPA analysis, an Environmental Impact Statement. The agency's approach appears consistent: changes to a national program that would affect lands and stakeholders in multiple states rise to the highest level of NEPA analysis, even if there would be individual Records of Decisions or subsequent actions.

In the case of the proposed Public Lands Rule, however, the BLM elected to forego NEPA altogether, claiming that despite the creation of an entirely new use under FLPMA, the codification of a land designation tool, and the establishment of a new leasing system, the rule was not significant enough to warrant environmental analysis.

By moving straight to publishing a proposed rule, the agency bypassed their responsibility to truly evaluate potential impacts of such actions, eliminated the opportunity for anyone, other than those employed by senior BLM leadership, to meaningfully contribute to the proposal, and reduced stakeholder confidence in the implementation of a final rule.

Further, the BLM appears intent to avoid substantive discussion with the public, stakeholders, and state and local governments under the agency's 75-day public comment period for the proposed rule. The BLM has scheduled only five public information sessions. The first session was a webinar, during which BLM staff provided a briefing on the contents of the rule and offered additional narrative to give shape to their interpretation of how the rule would be implemented, if finalized. A significant portion of the narrative was based not on the components of the rule, but clearly spoke to the agency's contemplation of subsequent guidance that would guide how the rule would be applied to federal lands. BLM presenters answered a limited number of attendee questions that were typed into the chat box, many of which did not address substantive questions about the rule. There was no opportunity for discussion with any attendees.

At this time, BLM has announced just three in-person public information sessions. These sessions are in Denver, CO; Reno, NV; and Albuquerque, NM. I appreciate the opportunity for Nevadans to attend the meeting in Reno. However, the schedule for meetings precludes many rural Nevadans as well as stakeholders in Washington, Oregon, California, Idaho, Montana, Wyoming, North Dakota, South Dakota, Utah, and Arizona from having an accessible meeting to attend, especially provided the connectivity challenges in rural areas that limit virtual engagement.

The meeting schedule, coupled with the unidirectional briefing style, has left stakeholders, some of which will be most impacted by the proposed rule, and federal partners alike with the impression that this process is designed to tell the multiple use community what is happening to them, rather than being an active, transparent, and collaborative partner.

In this process alone, BLM neglected public input in the development of the rule; and thus far, is limiting public engagement through the meeting structure and limited availability of meeting locations.

Process—Congress and Federal Agency Oversight

BLM is alleging that the proposed rule would not have an economic effect on a substantial number of small entities; and therefore, is not subject to review under

the Regulatory Flexibility Act (RFA),[7] and that the proposed rule does not constitute a major federal rulemaking and is, therefore, not subject to the Congressional Review Act (CRA).[8]

The Nevada Department of Agriculture fundamentally disagrees and interprets this as BLM circumventing Congress' ability to represent the best interests of their constituencies and denying other federal agencies the opportunity to ensure BLM is adequately considering the full breadth of stakeholder impacts.

The proposed rule contains actions that could substantially alter the multiple use balance on public lands, including substantial revision or elimination of mining, grazing, energy development, and other activities that the agency could deem incompatible with the new use established under a final rule. In the state of Nevada, economic output derived from BLM lands totals $29.3 billion (from Fiscal Year 2021):[9]

- Recreation: $554.2 million
- Renewables: $607.1 million
- Nonenergy Minerals: $27,630.1 million
- Oil and Gas: $19.9 million
- Grazing: $206.2 million
- Timber: $1.5 million
- Other: $314.2 million

In addition to the direct and labor revenue generated from grazing on public lands, cattle production in Nevada generates an additional $66.2 million in total ecosystem services on an annual basis, which is approximately $356.81 per cow.[10]

The opportunity cost of the rule is high. According to the agency, BLM-administered lands "supported $201 billion in economic output and nearly 783,000 jobs across the country in Fiscal Year 2021." According to the BLM's *Sound Investment 2022* publication, grazing generates $1.439 billion on an annual basis and supports more than 2 million jobs across the West.[11] Modelling conducted by the University of Wyoming about the economic consequences that would result from removing grazing from federal lands in three western states (Idaho, Oregon, and Nevada) showed crippling losses in rural communities. Combined, the data set modelled losses on 5,389 active grazing permits that, if removed, would result in a 60 percent decrease in ranch sales, a 50 percent decrease in labor income, a 65 percent decrease in personal income (from $33,940 to $11,812) and billions of dollars in direct economic losses. This doesn't even take into account the impacts on our nation's food supply chains.

If the proposed rule has a limiting effect on even half the grazing allotments in Nevada, 20 percent of renewable energy projects, 25 percent of recreation, or less than 1 percent of the nonenergy mineral production in Nevada alone, the BLM will have met the threshold for a significant rule and both the RFA and CRA would apply.

The likelihood of such significant impacts appears high. The proposed rule makes clear that conservation leases will not necessarily operate within the context of land use plans,[12] and would not override the subsequent authorization of valid and existing rights "so long as the subsequent authorizations are compatible with the conservation use."[13] The Nevada Department of Agriculture has serious concerns about allowing a new leasing system to operate outside the bounds of a land use

---

[7] 5 U.S.C. § 601 *et seq*.

[8] 5 U.S.C. § 804(2)

[9] Bureau of Land Management, *Socioeconomic Impact Report 2022*, https://www.blm.gov/about/data/socioeconomic-impact-report-2022

[10] Taylor, D., Efrain, N., Ashwell, Q., et al. (n.d.). *National and State Economic Values of Cattle Ranching and Farming Based Ecosystem Services in the U.S*. Retrieved May 24, 2023, from http://www.sustainablerangelands.org/wp-content/uploads/2019/11/B-1338-economic-value_web.pdf

[11] Bureau of Land Management, *Socioeconomic Impact Report 2022*, https://www.blm.gov/about/data/socioeconomic-impact-report-2022

[12] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19591 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.). See Section 6102.4—Conservation Leasing: "The BLM will determine whether a conservation lease is an appropriate mechanism based on the context of each proposed conservation use and application, not necessarily as a specific allocation in a land use plan."

[13] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19586 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.).

plan (which includes statutory requirement for the role of the public) and preemptively confirming that certain uses are likely to be precluded.

With BLM failing to include the RFA analysis in the proposed rule, the agency is preventing federal agencies from considering the rule prior to its publication and limiting the ability of these agencies to consider impacts on larger constituencies.

Content

At first blush, BLM's proposed Public Lands Rules appears to offer a solution to a challenge many in the grazing community have grappled with—allowing ranchers to extend conservation practices on private land to abutting public lands. However, upon further investigation, the content of the rule raised questions and piqued concern among the Nevada public and the ranching community.

The proposed rule seeks to elevate conservation as a "use" "on par with other uses of the public lands under FLPMA's multiple-use and sustained yield framework."[14] All other uses under the multiple-use and sustained yield framework have been clearly established and defined under FLPMA.[15] Each of these uses had been previously authorized on lands that would ultimately be managed by the BLM after 1976 through other laws like the Mineral Leasing Act of 1920, the Mining Law of 1872, and the Taylor Grazing Act of 1934. Each time a "use" was added to the multiple-use management portfolio under FLPMA, Congress authorized parameters and directed the BLM to develop programming to address the use.

While balancing conservation with responsible development of our public lands is at the core of FLPMA, in this instance, the BLM is seeking to add a new use without Congressional direction and defines the new use so narrowly that it could create conflicts with other Department of the Interior (DOI) agencies and U.S. Department of Agriculture (USDA) interpretations of conservation. The proposed rule entirely reimagines the balance of multiple use with no advanced public notice and limited public input.

Further, the proposed rule justifies the reimagining of the multiple use mandate of a novel interpretation of conservation as a use in order to justify a non-competitive leasing system that will make conservation leases a tool that will necessarily be inaccessible to a significant portion of the adjacent public and will simultaneously make public lands less accessible to both user groups and the public at large.

In every action authorized under FLPMA, the BLM is directed to provide early public notice and opportunity for comment: land use plans,[16] withdrawals of land,[17] and more. The BLM has poised conservation leases to avoid these same requirements under FLPMA by bypassing land use plan applicability.

Additionally, the agency has failed to define what is considered a "compatible" use or an "incompatible" use with an underlying conservation lease. While the BLM has previously stated they believe grazing is a conservation tool, the rule contains no text that would make the industry confident that this rule is not targeted to remove grazing access. Further, the rulemakes clear that uses like hunting, fishing, and recreation, when done with a commercial component—like outfitting, guiding, and other conservation activities—would not be defined as a "casual use"[18] and could be precluded due to the presence of a conservation lease. In sum, the BLM has proposed a system that will be rife for abuse and litigation without consistent standards and application.

The proposed rule also seeks to codify the agency's use of ACECs. The State of Nevada is currently home to 48 ACECs, many of which preclude public access or preclude multiple activities. I have significant concerns with BLM's proposed changes to the ACEC process that would make the process less transparent and more restrictive.

Let me be clear, Western agriculture—grazing management of public lands across the West—is conservation. The State of Nevada and the livestock grazing industry are committed to landscape health, continued productivity, improved partnerships, and conservation of public lands—and we're committed to doing it while following the law and including public input. Thus far, the BLM's proposed rule appears to

---

[14] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19585 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.).

[15] 43 U.S.C. § 1702(c)

[16] 43 U.S.C. § 1712(c)(9)

[17] 43 U.S.C. § 1714(c)(2)

[18] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19598 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.). See Section § 6101.4 Definitions, "*Casual Use* means any short-term, noncommercial activity that does not cause appreciable damage or disturbance to the public lands or their resources or improvements that is not prohibited by the closure of the lands to such activities."

deemphasize and discourage fair public access, public involvement, and stakeholder input.

Utilization of the Antiquities Act

Nevada is home to three national monuments: the Basin and Range National Monument, encompassing 704,000 acres; the Gold Butte National Monument, encompassing 296,937 acres; and one of the system's newest monuments the Avi Kwa Ame National Monument, encompassing 506,814 acres. All told, the last three presidents have changed the management of at least 1,507,751 acres in Nevada.

Despite the significant impact in the state, President Biden recently designated the Avi Kwa Ame National Monument in Nevada. The announcement came without any consultation with my department or adequate engagement with the State of Nevada. In the wake of the designation, Governor Lombardo issued the following statement:

> *Since I took office, the Biden White House has not consulted with my administration about any of the details of the proposed Avi Kwa Ame national monument which, given the size of the proposal, seems badly out of step. Upon learning that the President was considering unilateral action, I reached out to the White House to raise several concerns, citing the potential for terminal disruption of rare earth mineral mining projects and long-planned, bi-partisan economic development efforts. While I'm still waiting for a response, I'm not surprised. This kind of 'Washington Knows Best' policy might win plaudits from unaccountable special interests, but it's going to cost our state jobs and economic opportunity—all while making land more expensive and more difficult to develop for affordable housing and critical infrastructure projects. The federal confiscation of 506,814 acres of Nevada land is a historic mistake that will cost Nevadans for generations to come.*[19]

The Antiquities Act of 1906 provides for the President of the United States to establish national monuments by public proclamation, provided the lands be "confined to the smallest area compatible with the proper care and management of the objects to be protected."[20]

The Avi Kwa Ame footprint far exceeds the smallest area compatible; and in this case, appeared motivated by the Administration's desire to avoid development and utilization of resources consistent with the BLM's multiple use mission. The Antiquities Act should not be used as yet another tool for the BLM to avoid fulfilling their multiple use mission.

Renewable Development

Nevada has a broad portfolio of energy resources totaling 4,488.3 megawatts of geothermal, solar, hydro, wind, and other sources. Many of these projects are developed on public lands managed by the BLM. Conflicts have arisen when siting new energy projects on public lands and each of these are managed according to FLPMA guidance.

In April 2023, the BLM announced further development of 23,675 acres in southern Nevada for development of solar resources; and if fully developed, the project could produce 4 gigawatts of renewable energy. The announcement was part of the Administration's strategy to permit 25 new gigawatts of renewable energy on public lands throughout the nation by 2025, a fairly significant endeavor given the acreage required to site solar facilities.

Using the proposed development in Nye County as a reference, solar developments can require between 4,000 and 7,000 acres to develop a single gigawatt. This means the BLM's efforts could result in the conversion of 100,000 to 175,000 acres of multiple use landscapes to solar development.

FLPMA directs the agency to manage public lands in a manner that will provide "*food and habitat for fish, wildlife, and domestic animals*."[21] When conflicts or concerns are raised with the siting of new energy projects, NEPA analysis on the proposed project usually thoroughly addresses likely impacts on habitat for fish and wildlife. However, the impacts on other uses, including the impacts of the proposed

---

[19] Lombardo, J. [@JosephMLombardo]. (2023, March 21)., *Since I took office, the Biden White House has not consulted with my administration about any of the details of the proposed Avi Kwa Ame national monument, which, given the size of the proposal, seems badly out of step. My full statement on the designation below.* Twitter. https://twitter.com/JosephMLombardo/status/1638257593134247937/photo/1

[20] 16 U.S.C. § 431

[21] 43 U.S.C. § 1701(a)(8)

actions on food and habitat for domestic animals, fail to rise to the same degree of analysis.

Nationwide, utility-scale solar developments have been sited on prime agriculture lands, often displacing livestock grazing and with it, the natural resource benefits derived therefrom. The considerations and effects on public lands are no different. In seeking to site additional energy resources on federal land, the BLM should consider the impacts from the loss valuable grazed forage or the ecosystem services provided by the grazing permittees; development (and periodic adjustments in use) must be done "*without permanent impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output*."[22]

Analysis of the direct and indirect effects upon livestock grazing management:

- large areas of disturbance and fencing,
- decreased Animal Unit Months (AUMs) multiplied by the life of the project,
- potential water quality and quantity impacts,
- increased off- and on-road traffic,
- construction of new roads and all ancillary infrastructure,
- potential vehicle/equipment conflicts with livestock,
- decreased palatability of vegetation and forage from road dust during development activities,
- unsuccessful reclamation that does not return to healthy rangeland conditions,
- introduction and spread of noxious and invasive weeds, and
- other social and economic impacts to livestock grazing permittees and livestock management operations.

Each of these impacts should be fully evaluated as part of a project proposal on federal lands.

With the BLM's proposed Public Lands Rule, the risk to agricultural operations in Nevada is compounded. In addition to the risk of loss of access to forage on grazing allotments due to siting of energy projects, the proposed rulemakes clear that efforts to use a conservation lease for mitigation will also have the ability to remove lands from grazing use in order to mitigate energy project disturbance, in effect completely removing a prior valid grazing right. This potential is not limited to livestock grazing. These impacts will not only have an effect on livestock grazing, but will also affect mineral claims, recreation, hunting, fishing, and all other uses that are in areas that are currently being analyzed for construction of renewable energy projects and would be the site of future proposed conservation leasing.

Closing

I remain concerned that the current trajectory of federal policy for BLM lands in Nevada, and West-wide, will compromise the viability of agriculture in the West. In the western United States, public lands and agriculture are inextricably linked. The health of the 245 million surface acres and 700 million acres of subsurface minerals of federal land directly depends on the stewardship of grazing permittees, like those in Nevada, who have managed these lands for years, if not generations like my family.

The recent actions and proposed rule fly in the face of the multiple use mandate; and while the BLM will argue that this is bringing all uses to an equal level, we are already seeing this not be the case in Nevada.

The proposed rule outlines that conservation leases "*would not override valid existing rights or preclude other, subsequent authorizations so long as those subsequent authorizations are compatible with conservation use*."[23] The qualifying statement "so long as" negates all of the previous statements, demonstrating BLM's clear intent that uses such as solar, wind, oil and gas, mining, and livestock grazing will never meet the BLM's compatibility clause. This undermines the development and stewardship of all BLM lands.

Without access to public lands and the forage and water they provide, cattle and sheep producers in Nevada would not be able to sustain viable operations, putting the national beef and lamb markets at risk of increased volatility. In Nevada alone,

[22] 43 U.S.C. § 1702(c)

[23] Conservation and Landscape Health; BLM Proposed Rule, 88 Fed. Reg. 19586 (April 3, 2023) (to be codified at 43 U.S.C. 1701 *et seq*.).

the result would be $202.6 million in lost grazing economic activity, $66 million in lost ecosystem services, and an incalculable loss to the culture, rural communities, and land values across the state. Without stewardship of these ranchers, the BLM would simply be unable to take care of these landscapes—with or without conservation leases. The greatest threat to sage grouse, mule deer, trout, and other key species in the state is habitat loss due to fire and invasive species encroachment. Grazing reduces fire risk, particularly in years like this, where ample moisture will result in an explosion of late-season forage. Without grazing, that forage will dry up and become fuel for catastrophic wildfire. Grazing reduces these fuels as part of normal operations, preventing the BLM from applying chemical or other treatments that cost an average of $150 per acre. The cost savings for acres treated across the West totals billions of dollars annually.

When considering policies that touch every corner of my state, I implore the BLM to increase public input and public access to ensure they are drafting durable regulations and policies that motivate stakeholder that are working to keep these landscapes productive. If BLM continues current trends, they could be putting vast ecosystems at risk from reduced stewardship and compromise their ability to do long-term landscape-level planning, all while compromising food security nationwide. I encourage the Subcommittee to continue its rigorous oversight of the BLM, and I encourage each of you to look at your states and the stakeholders affected by each of these actions.

I thank you for your time and am happy to answer any questions.

Dr. GOSAR. Thank you, Dr. Goicoechea. I now recognize Ms. Garcia Richard for 5 minutes.

STATEMENT OF STEPHANIE GARCIA RICHARD, NEW MEXICO COMMISSIONER OF PUBLIC LANDS, SANTA FE, NEW MEXICO

Ms. RICHARD. Good morning, Chairman Gosar, Ranking Member Stansbury, and distinguished Subcommittee members. Thank you for the opportunity to join you today and express my support for BLM's efforts to better incorporate conservation and landscape health in its management of our nation's public lands.

I am a native New Mexican, born on the vast eastern plains of our state, and raised in the beautiful Gila wilderness located in the southwestern part of New Mexico. I have family that raised cattle both on those eastern plains and in the northern mountains. And most of the public land I manage has more cows than people.

I have the great honor of serving as the Commissioner of Public Lands for the state of New Mexico. And with about 13 million acres under management at the State Land Office and a responsibility to steward our lands for current and future generations, we work every day to ensure our land management practices are sound and reflective of the most current conservation science.

There is a lot in this proposed rule we could discuss today, but I want to focus my remarks on what this means for New Mexico from a land management perspective.

First, the rule recognizes the fundamental reality that our public lands are fragmented, and our ability to create resilient and healthy ecosystems requires a landscape-level approach. In my home state of New Mexico, Federal, state, tribal, and private lands are all extensively checkerboarded. We need to look for ways to maintain intact landscapes and prioritize the protection of habitat and other natural resources that our ecosystems rely on.

Second, the rule clarifies that conservation is a use on par with other types of land practices. This effort is consistent with the approach we are taking in New Mexico. The mission of the New

Mexico State Land Office is somewhat different from BLM, in that our primary mandate is to earn money for education from leasing lands.

But there is also a lot of similarity with BLM's multiple-use framework. We have recreational users, agricultural lessees, extractive industries, renewable energy projects, and pretty much any other land use you can imagine on our state land. And from those activities we are on track to earn a record $3 billion this year alone.

Our ability to continue to generate money for education is directly tied to the health and productivity of these working state lands. Conservation leasing must be a part of a balanced portfolio of uses as we work to ensure the health and resiliency of our public lands for current and future generations.

I would also like to emphasize that this rule isn't about taking public lands away. It is about explicitly allowing another type of use which can often occur alongside other land uses. There may be times where various uses are incompatible, but there are also going to be many instances where there are not any conflicts.

Lastly, the rule recognizes the importance of making sound management decisions based on science, and incorporating Indigenous knowledge shared by tribal communities. The pressing challenges of climate change cannot be understated. We need more resilient lands and ecosystems, and to get there we should learn from our traditional and tribal communities.

Let me be clear. This proposed rule is not perfect. For example, state agencies and local governments are not able to hold conservation leases. Landscape connectivity could be better enhanced if the option to lease for conservation purposes is made available to state and local partners.

Additionally, the rule shouldn't just prioritize ACEC land acquisitions. There are non-conveyance means like leasing, co-management that could also accomplish the objective of protecting these resources on a landscape level. Working with private, tribal, state, and local partners is often easier, less costly, and at times could be more effective than land acquisition in expanding the reach of conservation efforts and ultimately protecting more resources.

But overall, this rule is a significant step forward in improving how we manage our public lands. It would be good for New Mexico and a positive step in modernizing our nation's approach to public land management. I look forward to working through this rule-making process with the BLM regarding my concerns and suggestions.

Once again, thank you for the opportunity to be here today, and I would be happy to answer any questions the Committee may have.

[The prepared statement of Ms. Richard follows:]

PREPARED STATEMENT OF STEPHANIE GARCIA RICHARD, NEW MEXICO COMMISSIONER OF PUBLIC LANDS, NEW MEXICO STATE LAND OFFICE

Good morning, Chairman Gosar, Ranking Member Stansbury, and distinguished subcommittee members. Thank you for the opportunity to join you today and express my support for BLM's efforts to better incorporate conservation and landscape health in its management of our Nation's public lands.

I am a native New Mexican born on the vast eastern plains of our state and raised in the beautiful Gila Wilderness area located in the southwestern part of New Mexico. I have family that raised cattle both on those eastern plains and in the northern mountains; and most of the public land I manage has more cows on it than people.

I have the great honor of serving as the Commissioner of Public Lands for the State of New Mexico. With about 13 million acres under the management of the State Land Office, and a responsibility to steward our lands for current and future generations, we work every day to ensure our land management practices are sound and reflective of conservation science.

There's a lot in the proposed rule that we could discuss today, but I wanted to focus my remarks on what this means for New Mexico from a land management perspective.

First, the rule recognizes the fundamental reality that our public lands are fragmented, and our ability to create resilient and healthy ecosystems requires a landscape level approach.

In my home state of New Mexico, federal, state, Tribal and private lands are all extensively checkerboarded. We need to look for ways to maintain intact landscapes and prioritize the protection of habitat and other natural resources that our ecosystems rely on.

Second, the rule clarifies that conservation is a "use" on par with other types of land practices. This effort is consistent with the approach we are taking in New Mexico.

The mission of the New Mexico State Land Office is somewhat different than BLM's in that our primary mandate is to earn money for education from leasing lands, but there is also a lot of similarity with BLM's "multiple use" framework.

We have recreational users, agricultural lessees, extractive industries, renewable energy projects, and pretty much any other land use you can imagine. And from those leases we're on track to earn a record $3 billion this year.

And our ability to continue to generate money for education is directly tied to the health and the productivity of state lands. Conservation leasing must be part of a balanced portfolio of uses as we work to ensure the health and resiliency of our public lands for current and future generations.

I would also like to emphasize that this rule isn't about "taking public lands away." It is about explicitly allowing another type of use, which can often occur along side other lands uses. There may be times where various uses are incompatible, but there are also going to be many instances where are not any conflicts.

Lastly, the rule recognizes the importance of making sound management decisions based on science and incorporating Indigenous Knowledge shared by Tribal communities. The pressing challenges of climate change cannot be understated. We need more resilient lands and ecosystems. And to get there, we should learn from our traditional and Tribal communities.

Let me be clear, the proposed rule isn't perfect. For example, state agencies and local governments are not able to hold conservation leases. Landscape connectivity could be enhanced if the option to lease for conservation purposes is made available to all state and local partners.

Additionally, the rule shouldn't just prioritize ACEC land acquisitions. There are non-conveyance means, such as leasing and collaborative management, that could also accomplish the objective of protecting these resources on a landscape level. Working with private, Tribal, state and local partners is often easier, less costly, and at times, could be more effective than land acquisitions in expanding the reach of conservation efforts and ultimately protecting more resources.

But overall, this rule is a significant step forward in improving how we manage our public lands. It would be good for New Mexico, and a positive step in modernizing our Nation's approach to public land management. And I look forward to working through the rulemaking process with BLM regarding my concerns and suggestions.

Once again, thank you for the opportunity to be here today. I would be happy to answer any questions the Committee may have.

Dr. GOSAR. Thank you, Ms. Garcia Richard. I now recognize Chairman Lingenfelter for 5 minutes.

STATEMENT OF THE HON. TRAVIS LINGENFELTER, CHAIRMAN, MOHAVE COUNTY BOARD OF SUPERVISORS, KINGMAN, ARIZONA

Mr. LINGENFELTER. Thank you, Dr. Gosar, Ranking Member Stansbury, and honorable Subcommittee members.

As Chairman of the Mohave County Board of Supervisors and the District 1 County Supervisor, I am here this morning to speak in opposition to the proposed executive action utilizing the Antiquities Act to designate 1.1 million acres of land in northern Arizona as the Baaj Nwaavjo I'tah Kukveni National Monument. This latest proposed executive action would devastate the future economic development growth potential of northern Arizona, and would have long-lasting adverse economic effects on the human environment within Mohave County.

The proposed Baaj monument land coverage within Mohave County District 1 alone is 445,160 acres. Land currently managed by the BLM comprises 88 percent of the proposed monument at 391,936 acres. Arizona State Trust Land comprises 9.2 percent of the proposed monument at 41,090 acres. The proposed monument also includes privately-held land comprising 2.7 percent, or 12,133 acres. These private lands would be forever stripped of their ability to be developed to their full economic potential within a rapidly growing area within my district. Within my district and directly bordering the proposed national monument are the city of Colorado City, Arizona, Centennial Park, Arizona, and Cane Beds, Arizona.

The current poverty rate in Colorado City, Arizona, which is experiencing an incredible economic resurgence after so many years under the thumb of monster Warren Jeffs is a whopping 42.4 percent. Within Centennial Park and Cane Beds, Arizona the poverty rates are 22 percent and 18.8 percent, respectively. The current suicide rate is many times higher than that of the national average, and community mental health is slowly on the mend after experiencing generational trauma.

Their story is a real tale of resilience and of rising up from the ashes and rebuilding, and that should be applauded and supported at all levels of our government. These communities will be harmed by the unintended consequences of designating yet another national monument right in their backyard, as national monument designations typically have the unintended consequence of dooming the local residents to living in what I like to call poverty with a view.

The state of Arizona already has 18 national monuments in existence today. That is more than any other state in our nation. Mohave County, Arizona alone has only 10 percent privately-owned land. The state of Arizona and Mohave County simply cannot afford to lose any more lands to the Federal Government. Nearly 50 percent of the state of Arizona is now managed and owned by the Federal Government. Designating another 1.1 million acres as a national monument will further reduce private ownership and harm hardworking rural Americans within Arizona and Mohave County.

As I stated previously, almost 90 percent of the proposed acreage is already under BLM control, and Mohave County fails to understand why the current level of Federal oversight and management

and working collaboratively with tribal, state, county, and local elected officials and agencies, as has worked well for so long, is no longer sufficient.

Also, as a matter of public policy, is forever locking down known American natural resources really the wisest course of action to take when faced with an uncertain future with international players like China and Russia? The only thing placing Keep Out signs on the land does is that it forever hamstrings our citizens from making a living and enjoying the land with multiple uses as they are now.

On August 28, 1984, as Public Law 98-406, the Arizona Strip Wilderness Act was at the time thought to have, once and for all, addressed all questions of wilderness and conservation on the Arizona Strip in northern Arizona.

The Arizona Strip Wilderness Act specifically recognized the uranium potential of over ½ million acres of BLM and U.S. Forest Service lands in northern Arizona by releasing them from wilderness classification so they could be explored and mined with overwhelmingly bipartisan support at the time from across the entire political spectrum. The U.S. Congress had finally spoken, and clearly defined the disposition of public lands in northern Arizona.

Then 26 years later, in 2010 and 2011, the Obama administration's Interior Secretary, Ken Salazar, requested the National Park Service to evaluate nearly 1 million acres of lands now being proposed as the new Baaj monument for a 20-year moratorium on uranium mining, which was enacted and is still in place today.

Internal National Park Service e-mails from Park Service employees at the time showed that they could not identify a threat to the lands or watershed leading into or surrounding the Grand Canyon and, further, that breccia pipes inside the Grand Canyon National Park, which no one intends to mine, are in fact naturally occurring.

If the Federal Government is looking to prevent uranium mining, it does not require a new national monument designation to deny permits, as we believe the Federal Government already has that authority. Approximately 90 percent of these proposed lands are currently held in trust and managed by the Federal Government for all American citizens. Abusing the Antiquities Act to designate a new national monument would strip away the ability of all interested American citizens to participate in a public process and to have their comments accepted and publicly heard by the Federal Government.

Dr. GOSAR. Can we summarize, please?

Mr. LINGENFELTER. Yes, sir. The County of Mohave takes great pride in the fact that we are rich in natural amenities, and we hold the utmost respect and reverence for the Grand Canyon National Park and for our serious responsibility in protecting the park from harm.

We understand that tourism generates significant economic activity annually from visitors.

We are aware that, as of today, over 60 percent of the uranium used in domestic nuclear plants is unnecessarily shipped through ports in Russia. At a time when the United States of America has abundant supplies of uranium in our backyard, this reliance on

Russia, Kazakhstan, Uzbekistan, Communist China defies common sense. For those that understand modern mining, it makes no sense when Americans are told that mining domestic uranium supplies is bad, but mining, lithium, cobalt, and nickel is good.

Dr. GOSAR. Supervisor, let's cut it off there, and we will get to the questions.

Mr. LINGENFELTER. Thank you.

[The prepared statement of Mr. Lingenfelter follows:]

PREPARED STATEMENT OF TRAVIS J. LINGENFELTER, CHAIRMAN, MOHAVE COUNTY BOARD OF SUPERVISORS AND DISTRICT 1 SUPERVISOR

Baaj Nwaavjo I'tah Kukveni National Monument is asking for 1.1 million acres to be permanently protected.

As Chairman of the Mohave County Board of Supervisors and the District 1 County Supervisor, I am here this morning to speak in opposition to the proposed executive action utilizing the Antiquities Act to designate 1.1 million acres of land in northern Arizona as the Baaj Nwaavjo I'tah Kukveni National Monument. After past failed attempts, this latest proposed executive action would devastate the future economic development growth potential of northern Arizona and would have long lasting adverse economic effects on the human environment within the County of Mohave.

The proposed Baaj Monument land coverage within Mohave County District 1 alone is 445,159.7 acres.

Land currently managed by the BLM comprises 88% of the proposed Monument at 391,936 acres.

Arizona State Trust Land comprises 9.2% of the proposed Monument at 41,090 acres.

The proposed Monument curiously also includes privately held land comprising 2.7% at 12,133 acres. These private lands would be forever stripped of their ability to be developed to their full economic development potential within a rapidly growing area. Within my District 1 and directly bordering the proposed national monument to the north are the City of Colorado City, Arizona, Centennial Park, Arizona, and Cane Beds, Arizona. The current poverty rate in Colorado City, Arizona—which is experiencing an incredible economic resurgence after so many years under the thumb of monster Warren Jeffs—is a whopping 42.4%. Within Centennial Park and Cane Beds, Arizona, the poverty rates are 22% and 18.8% respectively. The current suicide rate is many times higher than the national average, and community mental health is slowly on the mend after experiencing generational trauma. Their story is a real tale of resilience and of rising up and rebuilding from the ashes that should be applauded and supported at all levels of government. These communities will be harmed by the unintended consequences of designating yet another national monument right in their backyard—as national monument designations have the unintended consequence of dooming the local residents to living in "poverty with a view".

The State of Arizona already has 18 national monuments in existence today—more than any other state in our nation. Mohave County, Arizona, alone has only 10% privately-owned land. The State of Arizona and Mohave County simply cannot afford to lose any more land to the federal government. Nearly 50% of our State of Arizona is now managed and owned by the federal government. Designating another 1.1 million acres to the federal government will further reduce private ownership and hurt hard working rural Americans within Arizona and Mohave County District 1.

As I stated previously in my testimony, approximately 90% of the proposed acreage is already under BLM control, and Mohave County fails to understand why the current level of federal oversight and management, and working collaboratively with state, county and local elected officials and agencies as has worked well for so long is no longer sufficient? Also, as a matter of public policy, is forever locking down known American natural resources really the wisest course of action to take when looking at an uncertain future with international players like China and Russia? The only thing placing "keep out signs" on the land does is that it forever hamstrings our citizens from making a living or enjoying the land.

On August 28, 1984, as Public Law 98-406, the Arizona Strip Wilderness Act was, at the time, thought to have once and for all addressed all questions of wilderness and conservation on the Arizona Strip in northern Arizona. The Arizona Wilderness Act specifically recognized the uranium potential of over one-half million acres of

Bureau of Land Management (BLM) and U.S. Forest Service lands in northern Arizona by releasing them from wilderness classification so they could be explored and mined. With overwhelmingly bipartisan support at that time from across the entire political spectrum, the U.S. Congress had finally spoken and clearly defined the disposition of public lands in northern Arizona.

Twenty-six years later in 2010 and 2011, the Obama administration's Interior Secretary Ken Salazar requested the National Park Service to evaluate nearly 1,000,000 acres of lands—now being proposed as the new Baaj Nwaavjo I'tah Kukveni monument—for a 20-year moratorium on uranium mining, which was in fact enacted and is still in place today. Internal National Park Service emails from Park Service employees at the time showed that they could not identify a threat to the lands or watershed leading into or surrounding the Grand Canyon—and further that breccia pipes inside the Grand Canyon National Park, which no one intends to mine, are in fact, naturally occurring. If the federal government is looking to prevent uranium mining, it does not require a new national monument designation to deny permits—as the federal government already has that authority.

Approximately 90% of these proposed lands are currently held in trust and managed by the federal government for ALL American citizens. Abusing the Antiquities Act to designate a new national monument would strip away the ability of all interested American citizens to participate in a public process and to have their comments accepted and publicly heard by the federal government. The County of Mohave also has the following questions as a part of this process which we are still looking for answers to:

- Mohave County is interested to learn how the boundaries of the proposed new national monument were drawn up—as we cannot help but notice that the proposal affects both Arizona State Trust Lands and privately-held lands, but not the Reservations of the Havasupai, Hualapai, or Kiabab Paiute Tribes or the other Tribes lobbying to restrict this land.
- Mohave County would like to know if the federal government has taken a hard look at the cumulative effects that a new monument designation would have on the human environment and the natural environment.
- Mohave County would also like to know what the Biden administration has done regarding vitality of commerce in this proposed area within Arizona and Mohave County District 1.

Designating this land as a national monument will take away future economic opportunity for the taxpayers of Mohave County and the State of Arizona. Rather than the Biden administration designating this unnecessary new national monument, continuing to work together collaboratively as we have will protect the land far better than no trespassing signs and forever harming the economic development future of the real human beings that actually live there.

The County of Mohave takes great pride in the fact that we are rich in natural resources, and we hold the utmost respect and reverence for the Grand Canyon National Park and for our serious responsibility in protecting the Park from harm. We understand that tourism generates significant economic activity annually from visitors, and that most of that activity is at the south rim and miles away from the proposed national monument. Most of the accompanying jobs are low-wage and seasonal jobs which is consistent with tourism employment which is typically at poverty level.

We are aware that as of today, over 60% of the uranium used in domestic nuclear plants is unnecessarily shipped through the Port of St. Petersburg. At a time when the United States of America has abundant supplies of uranium in our backyard, this reliance on Russia, Kazakhstan, Uzbekistan and communist China defies common sense. For those that understand modern mining, it makes no sense when Americans are told that mining domestic uranium supplies is "bad", but mining copper, lithium, cobalt and nickel is "good". It is wrong for American electricity rate payers to be financing Russia's war against Ukraine through international uranium purchases. President Biden has provided strong support for Ukraine. Why then would the Biden administration even consider placing off-limits our nation's largest sources of high-grade domestic uranium by designating yet another national monument.

It is, in fact, a national security choice. Thank you.

Dr. GOSAR. I thank the witnesses for their testimony. I will now recognize Members for 5 minutes. I want to thank the witnesses

for everything they have done so far. So, we will now go to the questions. First on the list is Matt Rosendale from Montana.

Mr. ROSENDALE. Thank you very much, Mr. Chair. Unfortunately, Director Stone-Manning and Secretary Haaland have refused to hold hearings in the communities most impacted by this rule, which is what has forced this Committee to bring these witnesses here so that their voices can be heard. Otherwise, those states, those communities would be silenced.

It is clear that the BLM has turned into a climate activist organization under this Administration. I am glad we are holding this hearing to uncover the unlawful and unprecedented actions taken by the Bureau. The proposed conservation and landscape health rule is just another example of this Administration trying to take authority vested in Congress and place it with the Administration's extremist agencies. This Administration is threatening Montanans' access to public lands to advance their own environmentalist agenda.

Changing the BLM's multiple-use mandate without the proper input from Congress as well as state and county governments is an unprecedented power grab. It will empower the Bureau to approve acreage limitations that could limit critical vegetation management and infrastructure maintenance projects on Federal lands.

Furthermore, this rule will mandate that BLM manages for preservation, rather than meet the multiple use mandate provided under FLPMA. The fact that BLM had only a 75-day comment period for this rule shows that they are not serious about receiving public input on this issue, and why this hearing is so important so that we can hear from the people that are going to be impacted the most.

The BLM has also refused to provide the rural counties most affected by this rule with a chance to be heard. Instead, they are holding listening sessions only in the major metropolitan areas of Denver, Reno, Albuquerque, far removed from those stakeholders who feel the results from this destructive rule when it clearly contradicts the intent and the language of the Taylor Grazing Act and the law.

Rule cannot change law. The law is the law. I seriously hope that they will hold an in-person session in Montana, as I have urged.

I would like to start off with Commissioner Todd Devlin.

Thank you so much for being here today. It is always good to see you. You mentioned in your testimony that this proposed rule gives the BLM a new ability to create a de facto wilderness study area of any size without the input of the state and county governments. What would be the short-term and long-term results of giving the BLM this power in your county, which about 43 percent of it is currently owned by BLM?

Mr. DEVLIN. Thank you, Representative Rosendale, for the question. It is a good question that is difficult to answer, but I will try to answer it from a hometown point of view.

My county is Bankhead-Jones land. A lot of the Federal land is Bankhead-Jones, which means it is checkerboard ownership. It is not in blocks. The only block that we have in my county is probably the Terry Badlands Wilderness Study Area. Other than that, it is private, Federal, private, Federal, checkerboard throughout.

So, by using the ACECs and conservation, if you take the Federal land and put a conservation easement on it, or protect it in some way that maybe restricts grazing, or prohibits you from feasibly grazing because of the difficulty to take care of your cattle or sheep, it would be devastating. It would force private to go and get conservation easements, and then you have it all locked up. That is my personal opinion.

Mr. ROSENDALE. Thank you. The new rule allows the BLM to grant conservation leases of up to 10 years and unlimited sizes to tribes, non-profits, individuals, and private entities, but not the counties and states. For what possible reason do you think the states and counties were excluded from this grant program?

Mr. DEVLIN. Because we probably opposed it in the first place, Representative.

Mr. ROSENDALE. Thank you so much.

Mr. Chair, I am on the button, so I will yield back.

Dr. GOSAR. I thank the gentleman from Montana. The gentlelady from Nevada, Ms. Lee, is recognized.

Ms. LEE. Thank you, Mr. Chair. It is great to see the witnesses today, especially my fellow Nevadan, Dr. Goicoechea.

Nice to see you. Thanks for being here. Before I get started, I just want to address Mr. Rosendale.

I am perplexed that Director Stone-Manning and Secretary Haaland are not here if it was so important to hear from them today, that they did not receive an invite.

I also want to——

Mr. ROSENDALE. Would you yield to a response?

Ms. LEE. Yes, I will yield.

Mr. ROSENDALE. What I said is that it is important to hear from the communities. We already know what the Director and the Secretary, what their initiative is. We know what their agenda is. I think it is important to hear from the communities——

Ms. LEE. OK, thank you.

Mr. ROSENDALE [continuing]. Which is why I was so stunned that they didn't hold a hearing——

Ms. LEE. I will reclaim my time now.

I also want to clear up something with respect to the Antiquities Act.

First of all, the Antiquities Act was created in 1906, and since then it has been used by 18 Presidents, 9 Democrats, 9 Republicans. When a designation is made using it, there ensures continued access to multiple use and, more importantly, it has been used by President Trump just recently to designate the Camp Nelson National Monument.

And when a monument is designated through the Antiquities Act, such as Avi Kwa Ame in Nevada, it is designated on Federal land. It does not give the authority to the President to condemn land from private landowners or states. It simply increases the level of production for important cultural, biological, scientific, and other resources. The Antiquities Act has been and remains a bipartisan success story.

Speaking of bipartisanship, it appears today that this hearing is designed to divide. But I think there is so much that unites us when it comes to public lands. Just last month, for instance, this

Committee unanimously advanced the Biking on Long Distance Trails Act. This bill, the bipartisan, bicameral that I co-led, will help develop new bike trails on Federal lands, and make existing trails safer and more accessible.

Dr. Goicoechea and Commissioner Garcia Richard, we come from states that have bipartisan administrations, where our outdoor recreation adds billions of dollars to our economies each year. Could you please lend your perspective on what those dollars mean to places like Nevada and New Mexico, and how bipartisan support for recreation sector helps deliver good jobs and other benefits to our states?

Ms. RICHARD. Mr. Chairman and Congresswoman, what a great statement and question.

We say that recreating outdoors is not a red or blue issue. We all recreate. But in New Mexico in particular, we have 11 national monuments, 2 of which are our most recent. And around those we see increased visitorship to the tune of a million extra visitors per year in our southern monument, Organ Mountains-Desert Peaks.

And from the long lines that we see at our national parks, we know that these outdoor spaces, as was mentioned, are iconic, are really drawing tourists to our area.

So, just really briefly, in New Mexico $9.9 billion in annual consumer spending from this industry, $2.8 billion in annual wages and salaries, and $6.23 million in tax revenue. For a small state like ours—we have 2 million people—that is a big boon.

Dr. GOICOECHEA. Congresswoman Lee, thank you for the question. And yes, obviously, recreation is a huge part of Nevada, and that is part of why I guess we are frustrated with the conservation rule as proposed. We really feel that we can be an active player in that. We don't want to jeopardize that.

At the first virtual meeting on the rule that was heard, a comment was received and the answer was we may have to move a hiking trail if it is non-compliant with the conservation lease. That concerns me. If you move that, you are going——

Ms. LEE. Excuse me. My question was on what the value of recreation is in the state, not about the rule. I am sorry.

Dr. GOICOECHEA. Yes, ma'am. Well, it is very valuable, very similar numbers to what New Mexico did. And along with recreation, we would also add in the sportsman component of that, which is tens of millions of dollars annually.

Ms. LEE. Thank you.

And before I yield my time, I just wanted to enter into the record a newspaper article in response to the statement that the Governor was not consulted with respect to the designation of Avi Kwa Ame, when, in fact, he was. So, I will enter that into the record. Thank you.

Dr. GOSAR. Without objection, so ordered.

[The information follows:]

White House rejects Lombardo's criticism on monument designation

LAS VEGAS SUN, March 22, 2023 by Casey Harrison

https://lasvegassun.com/news/2023/mar/22/white-house-refutes-lombardos-outreach-claim-about/

*****

The White House is pushing back at a claim from Nevada Gov. Joe Lombardo that President Joe Biden's administration had not contacted the governor's office about designating Avi Kwa Ame a U.S. national monument.

A White House official said the president's team had long coordinated with members of Nevada's federal delegation. It also coordinated with former Nevada Gov. Steve Sisolak's administration. Lombardo defeated Sisolak November's general election and took office in January.

"We initially reached out to the governor's office in January about protecting this tribal site, and our team spoke with the governor's office yesterday as well," the White House wrote in a statement today to the Sun. "DOI (U.S. Department of Interior), CEQ (Council on Environmental Quality), and the White House have also been working with Nevada Tribal state leaders since the Avi Kwa Ame monument was proposed.

"DOI staff traveled to Nevada for meetings with stake holders and state leaders in addition to public meetings. Tribal consultations took place in both Nevada and Arizona. We worked diligently with Nevada government leaders including members of the federal delegation."

Biden on Tuesday declared more than a half-million acres of federally owned land south of Las Vegas—which spans to state lines with California and Arizona and encompasses nearly all the surrounding land outside Laughlin and Searchlight—would earn protections from development projects in one of the most sweeping federal land conservation efforts in decades.

Shortly after Biden's announcement, Lombardo sent a release stating the Biden Administration had not responded to "several" concerns raised by the governor.

Lombardo's administration denied the White House's claim that the president's team reached out to the governor. Repeated attempts by Lombardo to speak with Biden were ignored, they said.

Additionally, Lombardo officials were not invited to participate in stakeholder meetings about Avi Kwa Ame, they said.

Lombardo's chief of staff, Ben Kieckhefer, received an email in mid-January from an unknown individual to discuss a topic that did not specifically include Avi Kwa Ame, they said.

There was a brief exchange of emails, but no further follow-up from the White House and no mention of the monument's potential designation, they said.

"No one at the White House reached out to consult Gov. Lombardo specifically about Avi Kwa Ame and no one at the White House responded to Governor Lombardo's repeated attempts to get in contact about this issue," wrote Elizabeth Ray, communications director for Lombardo, in an email to the Sun. "The Biden Administration had no interest in Nevada's position on this issue, and unfortunately they made that very clear."

Lombardo in his statement Tuesday said that the "federal confiscation" of the 506,814 acres for Avi Kwa Ame would jeopardize economic development in the area while making it more difficult for the state to acquire new land for affordable housing. Approximately 85% of the land within Nevada's borders is federally-owned, including most of the Avi Kwa Ame designation.

In his full statement, Lombardo said:

"Since I took office, the Biden White House has not consulted with my administration about any of the details of the proposed Avi Kwa Ame National Monument which, given the size of the proposal, seems badly out of step. Upon learning that the president was considering unilateral action, I reached out to the White House to raise several concerns, citing the potential for terminal disruption of rare earth mineral mining projects and long-planned, bipartisan economic development efforts.

While I'm still waiting for a response, I'm not surprised. This kind of 'Washington Knows Best' policy might win plaudits from unaccountable special interests, but it's going to cost our state jobs and economic opportunity—all while making land more expensive and more difficult to develop for affordable housing and critical infrastructure projects.

"The federal confiscation of 506,814 acres of Nevada land is a historic mistake that will cost Nevadans for generations to come."

A spokeswoman for the governor did not respond to a request for clarification, including whom Lombardo considered "special interests."

A tribally led campaign to legally protect Avi Kwa Ame dates to at least 1999, when Spirit Mountain was placed on the National Register of Historic Places as a Traditional Cultural Property. Biden announced at the White House Tribal Nations Summit in December that he would designate Avi Kwa Ame as a national monument.

Avi Kwa Ame's designation all but halts a proposed 68 wind-turbine farm by Crescent Peak Renewables, though the White House asserts the U.S. Bureau of Land Management has identified more than 9 million acres of public land throughout the state's borders for solar energy projects.

The BLM is also in the process of reviewing more than three dozen proposed renewable energy projects in the state that could generate up to 13 gigawatts of electricity if constructed. Crescent Peak submitted an application to BLM for the 308-megawatt wind farm, which would have been about nine miles west of Searchlight. Those efforts, however, we generally met with opposition.

Biden is able to declare the site a national monument under authority given to him via the Antiquities Act of 1906.

Dr. GOSAR. I thank the gentlelady. I now recognize Mr. Collins from Georgia for his 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. Devlin, in your testimony you mentioned that the Federal Government owns 60 percent of your county's mineral rights. What minerals are located there?

Mr. DEVLIN. Gravel. But more than gravel, there is oil and gas. There is the Cedar Creek Anticline, which was an oil formation in the southern part of the county that we know of. And industry is coming back to rejuvenate those wells.

Mr. COLLINS. What percentage of that land is used for mining?

Mr. DEVLIN. Very little. I think we have two producing wells.

Mr. COLLINS. OK. Is there any concern that this proposal rule is going to prevent mining in your county?

Mr. DEVLIN. It could, possibly. It all depends on how you interpret this rule. That is the problem. It is very cloudy.

Mr. COLLINS. Mr. Lingenfelter—I think I pronounced that right, or did I get close? The same question is to you. I would like to get an answer from you on that.

Mr. LINGENFELTER. If I could get the question repeated, was the question on the minerals?

Mr. COLLINS. Yes, what minerals are located in your area?

Mr. LINGENFELTER. Mohave County has a long history of mining, actually. A lot of copper. We have some international companies that are doing some exploratory lithium mining in my district, actually, copper, turquoise. We have some world-renowned turquoise mining.

Mr. COLLINS. Yes, I think the copper is what——

Mr. LINGENFELTER. Gold, and also silver.

Mr. COLLINS. With this proposed rule, is it going to prevent any of that from being mined?

Mr. LINGENFELTER. Again, as the other witness said, it depends upon how that is interpreted.

Mr. COLLINS. OK, all right. If I pronounce your name wrong, I am sorry. I am from Georgia, and Rosendale is about as hard as we get.

[Laughter.]

Mr. COLLINS. Is it Mr. Goicoechea?

Dr. GOICOECHEA. Very good.

Mr. COLLINS. OK. If I read your bio right, you are a fourth generation cattle rancher?

Dr. GOICOECHEA. Yes sir, that is correct, fourth generation.

Mr. COLLINS. Is there a fifth generation?

Dr. GOICOECHEA. Yes, sir, there are. There are two little girls at home.

Mr. COLLINS. Is good stewardship of the land important?

Dr. GOICOECHEA. Yes sir, absolutely. If it wasn't, we wouldn't be here.

Mr. COLLINS. Well, that was what I was going to follow up with. It looks like you have done a good job, since you have been sustaining it through the fourth generation.

Also reading, it looks like you have been a state veterinarian, county commissioner, head of the local Cattlemen's Association. So, I would say that you probably care very much not just about your ranch, but the community and the environment, as well.

Dr. GOICOECHEA. Yes sir, that is right. And in addition, chairing the Sagebrush Ecosystem Council for 10 years that runs our conservation credit system for the state of Nevada and managing sagebrush habitat for the sage grouse.

Mr. COLLINS. Mr. Chairman, it seems like that we have seen this time and time again. And I am a freshman. I am new here, 150 days into this thing. But every time we have a hearing and we hear from people in the places that this stuff is being affected by, we see people that are concerned, just like that gentleman right there, for the fifth generation coming along, of being able to make a living.

We see an economy being destroyed for no reason other than some left-wing social agenda experiment that this Administration is pushing on the American people. And I am thankful that we have hearings and we have people like that out there to bring in.

With that, I yield back.

Dr. GOSAR. I thank the gentleman. I now recognize the gentleman from Arizona, Mr. Gallego.

Mr. GALLEGO. Thank you, Mr. Chair.

The existence of national monuments is directly relevant to communities in Arizona and across the West, and I was proud to work on the Bears Ears Inter-Tribal Coalition to push multiple administrations to use the Antiquities Act to protect Bears Ears National Monument. It is an area of enormous significance to tribes and its protection is an important part of honoring our responsibility.

I also introduced legislation to establish permanent protections for Bears Ears, so that we do not have to rely solely on administrative action.

Closer to my home, I have been proud to co-sponsor the Grand Canyon Protection Act to protect one of Arizona's and the country's crown jewels. And now, Arizona tribes, likely voters, and elected officials in Coconino County all agree that part of the Grand Canyon outside of the national park should be protected through monument status. It will bring revenue to an area that needs it, and protects sacred tribal sites at the same time.

There have been other recent monument designations that we can learn from, including in New Mexico. Commissioner Garcia Richard, how has the Rio Grande del Norte Monument designation affected the region economically?

Ms. RICHARD. Thanks so much for that question, Mr. Chairman and Congressman, and I will just echo what you said before I give my answer, that that monument designation was very important to Pueblo. It is a native tribe that we have in the northern area of the state. Taos Pueblo was instrumental in the recognition of that particular monument.

In terms of the increase to the area—and let me just remind folks this is a very rural part of New Mexico, not used to seeing a lot of visitors, not used to this infusion of economic development, they saw a 6 percent increase in their lodger tax. And as a gateway community, that was very important to that small community of Taos.

In addition, the first 6 months after the monument was created, the tax receipts for food and other services rose also by 21 percent. So, that was an infusion, like I said, of kind of life into this community that relies on the monument for that visitation and those tax dollars.

Mr. GALLEGO. I actually lived up in northern New Mexico for a couple of years, in Espanola. So, I traveled that area. I know, I am a little surprising sometimes. I traveled that area a lot, and you are right. In terms of economic development, it is very beautiful country, beautiful people. Outside of Los Alamos, there is not really any big employee base. So, tourism is still creating jobs, especially further away from Santa Fe. It is really important for that area, so I am very happy to hear that occurred.

Are there any kind of other non-economic benefits that came from the monument designation?

Ms. RICHARD. Mr. Chairman and Congressman, absolutely. There are sort of the non-tangible pieces that we can talk about. And I will just say, New Mexico is a very small state, 2 million people, the bulk of which live in that Rio Grande corridor. The rest of us live in small towns like Espanola, like Taos. For us, the areas that we live in and the landscapes that we were raised in have that feel that is part of our identity. So, the protection of those landscapes can't be overstated.

Mr. GALLEGO. If you could rewind several years and have the chance to reconsider the monument designations knowing what you know now, would you still support monument designations for Rio Grande del Norte and Organ Mountains-Desert Peaks?

Ms. RICHARD. Thank you, and absolutely I would. And it is not just me, Mr. Chairman and Congressman, that would support those. The support for the designation, when a poll was taken in southern New Mexico for the Organ Mountains-Desert Peaks by

the Chamber there, actually rose. Support for the monument rose 6 months after the designation.

Mr. GALLEGO. Excellent. Thank you.

And I would also like to welcome a fellow Arizonan, Chairman Lingenfelter.

Thank you for coming and joining us.

He is actually a great commissioner, as well as quite a water expert, if you ever need to really talk about the water scarcity issue of the West. This guy has the brain for it.

Thank you so much. I yield back, Mr. Chairman.

Dr. GOSAR. I thank the gentleman from Arizona. And just a note, Presidents that used the Antiquities Act to reduce the size of designations: Trump, Eisenhower, Truman, Wilson, Coolidge, and someone more importantly for future designation is Taft.

I now recognize the gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman, Madam Ranking Member, and to all the guests that have come to provide testimony, thank you very much for the travel and the time.

As I see the rule that is the topic of this hearing, it is an effort with the conservation rule and the discussion around it to create some balance, landscape balance, period, to bring conservation and the attendant protections that that brings to sensitive areas and areas that deserve that protection. It creates a balance between the extractive industries—fossil fuel, mining—that have had the upper hand on decisions that are made around BLM and the usage of the land. This creates a balance. It is a necessary balance.

And then also the attendant discussion about the Antiquities Act and, in particular, the Grand Canyon designation that the tribal coalition is seeking. The tribal proposal is a by-product, a very direct by-product of the toxic legacy that uranium mining inflicted on those areas, those peoples. Industry still has not cleaned it up. And as they walked away, they left a legacy of contaminated water, land, the health impacts, the illness, the chronic legacy.

Commissioner, is the mining industry's track record in Arizona, as I described it, an isolated incident, or have they taken full responsibility to protect land, water, and public health in New Mexico after mining is gone?

Ms. RICHARD. So, Mr. Chairman and Congressman, it is exactly like you described. The situation in Arizona is the situation in New Mexico, as well. There have been decades of uranium mining, which we now live with the legacy of. And I am just going to give two quick examples because one of them actually is on the land that I manage.

There was a Tronox mine there. The tailings from that mine still to this day remain on state land. There is no clear path forward to clean up those tailings or who is going to pay for that cleanup.

The other issue I would like to raise is the largest tailings spill in the history of this country actually occurred in the 1970s in Churchrock, New Mexico, right on the border of the Navajo Nation. It was a devastating tailings spill that reverberates and echoes through today in the health of the folks that live in that community.

Mr. GRIJALVA. And that legacy, what it has meant to the people of New Mexico and the efforts to protect Chaco Canyon, those

efforts parallel to a great degree to the efforts to protect the Grand Canyon for the long term. Could you reference that, or any comment on that?

Ms. RICHARD. Yes, Mr. Chairman and Congressman, there is a lot of overlap. I think you said that the decision on this newly proposed monument is a direct result of the legacy. I think you could say the same thing for New Mexico.

The land that the uranium mining occurred in is sacred to the people of New Mexico, most particularly the Indigenous groups. So, there is Mount Taylor, right smack in the middle of uranium country, that is sacred to a number of tribes who reside in that area.

And then you mentioned Chaco Canyon. Folks see it as a landscape resource that, essentially, is meaningful to not only Navajo Nation, but also New Mexico's 19 pueblos. So, actually, in the State Land Office, we have placed a moratorium on all new oil and gas drilling in the Chaco Canyon area.

Mr. GRIJALVA. Yes, and the discussion around the Grand Canyon, it will go on. Stakeholder engagement will occur, and people will be given the opportunity to comment on the proposal that the tribal coalition has brought forth.

But there was a similarity, one of our witnesses said about we want to be at the table and not the menu. It was the exact same comment that the leader of the Zuni Pueblo said at that discussion with Secretary Haaland. We come to the table, but we are always the menu. And on this instance, there is some balance being created there, as well.

The Mayor of Flagstaff supports it, Coconino Board of Supervisors supports it. And where most of the proposed monument lies in Coconino County, I should add, hunters, anglers, conservationists, the dozen tribes that are associated with the canyon, 75 percent of likely Arizona voters support the designation.

And this discussion will go on. But real facts and real opinions are going to guide this decision, I am gratified by that.

Thank you, Commissioner, for your response.

And I yield back, Mr. Chairman.

Dr. GOSAR. I thank the gentleman. I will recognize myself now.

Supervisor Lingenfelter, there is a thing about trust, I have always had the definition of trust as trust is a series of promises kept. And I want you to think about that with the following answers.

I know that some of my friends on the other side of the aisle are very passionate about this, and the other proposed monument designation, quite frankly. But I think we need to keep areas inside their own congressional districts to themselves.

Let's talk about some facts when you went over your testimony. Is it true the state of Arizona already leads the nation in national monuments?

Mr. LINGENFELTER. Dr. Gosar, yes, that is accurate.

Dr. GOSAR. And you said, of the 1.1 million acres proposed, 40 percent of it would be in Mohave County, right?

Mr. LINGENFELTER. Dr. Gosar, that is accurate.

Dr. GOSAR. And 90 percent of the proposed acreage is already under BLM control.

Mr. LINGENFELTER. Dr. Gosar, again, that is accurate.

Dr. GOSAR. And you have very little private land in Mohave County.

Mr. LINGENFELTER. Dr. Gosar, Mohave County has 10 percent privately owned——

Dr. GOSAR. This isn't unusual. How about Gila County? There I think they are 6 percent private. So, it is very, very predicated to Arizona.

Do you think that the further restrictions by the monument designation and what type of additional restrictions anticipated on Federal lands in your communities, what would the impact potentially be?

Mr. LINGENFELTER. Thank you for the question, Dr. Gosar.

As you know, Mohave County, and specifically in the Kingman area, we have a history of that. We had a mine that closed down. It was the Duval mine, I believe, and a major employment loss. Mohave County has had a history of mining operations, various different minerals. And when we lose that ability to extract the raw materials, the minerals that our country needs, that industry needs, Mohave County has suffered.

Dr. GOSAR. So, it goes back to my definition of trust. Has the Federal Government kept their promise?

Mr. LINGENFELTER. In Mohave County's view? I believe that they have not. These lands, we believe, are held in trust for all Americans, and for multiple uses.

Dr. GOSAR. So, going back to it, I also am good about good process builds good policy, builds good politics. So, if it was decided that this was a good idea, why not invite the local people?

Mr. LINGENFELTER. Thank you, Dr. Gosar. Mohave County was disappointed that we did not receive an invitation from Secretary Haaland.

Dr. GOSAR. I find it fascinating that the other side can say, "Why isn't the Secretary here, along with others that were invited?" Well, I mean, I guess fair play and fair game, from that standpoint.

Dr. Goicoechea, the proposed rule extends landscape health analysis across the landscape. In your testimony, you sounded critical of this, but the BLM has argued that this is what the livestock grazing industry has been asking for for years. Can you explain this?

Dr. GOICOECHEA. Yes, thank you for the question, Chairman. It is important to note that land health standards need to be analyzed, and those impacts need to be fully analyzed.

I am not sure that the way this proposed rule, as written—and again, I have read it so many times, I am as confused as everyone here is about what exactly it is trying to get at. But we can't, with a rule that puts conservation leases down, get to the underlying cause if we are not meeting land health objectives. We must analyze those, and that needs to be done through NEPA.

Dr. GOSAR. I thoroughly agree. And along with the BLM, we also have Forest Service looking at leasing issues, like in Arizona, where we are mis-utilizing a tool from the University of Arizona on animal units per acre. So, it is not just the BLM that is after this, it is also the Forest Service.

Dr. Goicoechea, as a state official, you know what it takes to develop a rulemaking that can withstand legal scrutiny and will

achieve desired ends. In your written testimony, you talked about how BLM has created a system rife with abuse. Can you explain that?

Dr. GOICOECHEA. Sure, yes. Rulemaking is, obviously, very critical, and there is no state agency that would propose a rule such as this without going through the process and without knowing what those sidebars are.

I think it is important to note that the Supreme Court has been very clear about what the Federal agencies can and can't do outside their congressionally-set sideboards. I believe that they are here, they are amending FLPMA without using Congress, and it will not stand up to a legal challenge, nor would a rule in the state of Nevada if we did not go through the proper process.

Dr. GOSAR. I thank the gentleman.

I am going to propose a lightning round, if you like. These folks came for a long period of time. Why not do a lightning round? Would you be able to do that?

Ms. STANSBURY. Sure, I would like to do my questions first, though.

Dr. GOSAR. Oh, I forgot. I am sorry.

Ms. STANSBURY. All right. Well, I always appreciate the Chairman's lightning round, so be prepared. You are all going to be asked a question.

Again, I want to thank Commissioner Garcia Richard for being here today. In addition to being our state's land manager, she is an educator, comes from a multi-generational family that has been on these lands since before the United States entered these lands, and also is an incredible leader in our state.

And one of the things that I really appreciate about our Commissioner is the unprecedented effort that she has made to modernize the way in which we are managing our lands in New Mexico, so that the statutes that do exist at the state level to manage these lands really reflect the values and needs of contemporary people.

And as the Commissioner noted, the primary responsibility of the State Land Commissioner in New Mexico is to manage these lands. These are largely state land grant lands that came from the Federal Government after the United States came in for profit maximization, because those funds actually go into state coffers. So, the addition of protection of cultural properties, tribal consultation, management for conservation, all of those things are modern interpretations of how we manage these landscapes at scale, while also continuing to ensure that we are maximizing our fiduciary responsibility to the people of New Mexico.

So, I wonder, Commissioner, if you could just take a moment to talk about how this BLM rule in some ways kind of parallels what you have done at the state level, and how that has enhanced your ability to manage those lands at scale for multiple use, and what, if any, impact that has had on your fiduciary responsibilities as the Commissioner.

Ms. RICHARD. Thank you so much for that question. I am just going to give two really quick examples.

At the land office, what we call this is a lease over lease. You have someone who already holds, primarily, a grazing lease. And

I am going to give an example of a birding location. The Audubon Society has come in and actually, in partnership with the grazing lessee, has developed a site where you can visit the largest number of migratory bird sightings in the western United States at this facility. The grazing lessee actually helped us create the habitat around this facility, and now we have this lease for multiple use.

The other example I am going to give is that we have an oil and gas company in the southern part of our state, EOG Resources, who has noted that there is the presence of an endangered plant in one of their sections that they lease from us. They are actually undergoing now the instrument of a conservation lease to protect that area with the blue tharp that is located there.

Ms. STANSBURY. And Commissioner, when you began these efforts to modernize the State Land Office, I think, similar to many of the arguments that we hear at the Federal level, there was a lot of fearmongering that, oh, my gosh, if we manage these landscapes at scale, and we include conservation, it is going to compromise our ability to do resource management and to make revenue off these lands. But can you tell us what has been the outcome of oil and gas revenues in New Mexico since you took office?

Ms. RICHARD. The new conservation leasing has not come at the expense of record revenue that we continue to enjoy into the land office. This is merely creating another means for us to draw revenue and care for the health of the land.

Ms. STANSBURY. And, in fact, Commissioner, isn't it true that actually the state of New Mexico has seen the largest intake of oil and gas revenue on state lands ever in the history of the state of New Mexico over the last 3 years?

Ms. RICHARD. Yes, Mr. Chairman and Congresswoman, we broke $1 billion my first year in office, $2 billion my second, and we are on track to break $3 billion in one year for the first time in our history.

Ms. STANSBURY. Thank you. So, this rule is another tool. It is a tool in the toolbox.

And I do appreciate the comments today. I think all of you have provided very useful comments. This is why we have hearings, as was noted. And this is also why the Federal Government uses the Federal Register and comment periods to try to refine rules, as was noted. And I do think that there are some improvements to this rule that can be had. That is why this process exists. And, certainly, we will be following up not only from some of the testimony today; we have also heard from the solar industry.

But I also find it ironic that there has been some argument here today about the need, and I agree wholeheartedly, as did the Chairman, of using NEPA and our other permitting tools and our regulatory tools to make sure we hear from the public. So, it is ironic that we are having this conversation in this Committee, because I have sat here for the last several months listening to my colleagues talk about why we need to gut NEPA, and expedite permitting, and not hear from communities. And right now they are at the negotiating table with the President trying to gut NEPA across Pennsylvania Avenue. So, it is a little bit of a mixed message here.

Finally, I do want to thank folks who have come and testified today from Arizona. And I do respect the Chairman's comments about keeping a focus on what happens in your own district. However, I do want to note that the greater Grand Canyon, Chaco Canyon, Bears Ears, and Oak Flat areas, which are in other districts other than my own, are sacred to the people who live in my district, and they are a moral and an actual legal trust responsibility of the Federal Government to make good on our promises to protect these lands for Indigenous communities, and to do proper consultation.

And I encourage folks who are seeking to develop areas for uranium mining to have conversations with the communities that are living with the legacies, because while it might provide a few hundred jobs for this generation, I will tell you that there are thousands of New Mexicans, multi-generational families in New Mexico, who are living with the legacy of cancer, who have died too young, and who are still living with the legacy of toxic water in their communities. It is not worth it, and it is not needed.

So, with that, Mr. Chairman, I very much appreciate today's conversation and look forward to the continued conversation.

Dr. GOSAR. I would like to do a lightning round, if you guys wouldn't mind. We will go 3 minutes. How does that sound?

Ms. STANSBURY. OK.

Dr. GOSAR. The gentleman from Montana for 3 minutes.

Mr. ROSENDALE. Thank you, Mr. Chair.

You know, Montana, we have state trust lands, as well. And everything, Ms. Richard, that I heard you referencing was the state trust lands. And guess what? We do a great job managing our state trust lands, as well.

I had the privilege of serving on the State Land Board for 4 years. I was the state auditor. So, I was responsible for those lands, 4.7 million acres, and they were managed a lot better than the Federal lands. We harvested our timber, we mined our minerals, and we extract oil and gas. Additionally, we protect our air and water the whole time that we do that.

We have tremendous access for public to enjoy these lands for recreational purposes, and they do just that because they are healthier. They are much healthier than the Federal lands, which, in many cases, hundreds of thousands of acres look like moonscapes because they haven't been managed properly. We generate $40 to $55 million a year for our K-12 education system because of proper management of those lands.

But I can tell you something. The people from Montana are the ones that manage those lands, not some bureaucrat in Washington, DC who doesn't know anything about the management of those lands. Meanwhile, we are trying to impose additional rules which, again, I will state are in complete violation and contradiction of the Taylor Grazing Act, the law, the law that says what those lands are supposed to be used for.

That being said, Mr. Goicoechea, in your testimony, you mentioned that the BLM elected to forego the NEPA analysis altogether in promulgation of the rule. Are you aware of any other situation and in many years of your public service where the BLM has foregone the NEPA process for a rule this impactful?

Dr. GOICOECHEA. No, sir, I am not.

Mr. ROSENDALE. The BLM claims that this proposed rule will not have an economic impact on a substantial number of small entities, and thus is not subject to review under the RFA. Do you disagree? And if so, how will small entities be affected economically by this proposed rule?

Dr. GOICOECHEA. Yes, sir. Thank you for the question. I wholeheartedly disagree, as does the state of Nevada.

Without a thorough socioeconomic analysis, we cannot really know what those economic impacts are. If you take a producer off of a land for 5 or 10 years, whether it is grazing, mining, a campground, for example, what are those economic impacts to that community? They are great. And in the case of a rancher, they will be out of business. They cannot sustain it if they are removed because they are non-compliant with the conditions of a lease. And to say that it will not have a financial impact is erroneous.

Mr. ROSENDALE. And if we put the ranchers out of business, what happens to the local automobile dealership, the grocery store? What happens to those businesses?

Dr. GOICOECHEA. They go out of business. Probably just as importantly is all the other stewardship of the lands around that that are occurring are going to go away, as well. The Bureau needs help to do this work, and it has always been ranchers at the top that are doing that work. And if they are gone, the landscape suffers, the local businesses suffer, the grocery store suffers, the schools suffer. And then we end up with isolated communities and poverty and suicide, and everything else that we have heard about from my colleague to the left.

Mr. ROSENDALE. Thank you for your testimony today, Mr. Goicoechea.

Thank you, Mr. Chairman. I yield back.

Dr. GOSAR. The Ranking Member for the Full Committee is recognized for his 3 minutes.

Mr. GRIJALVA. Commissioner Garcia Richard, let me go back to a discussion that is kind of intertwined with everything else we are talking about.

And I do admire and respect the work that New Mexico and your office has done to deal with the issue of balance, to deal with the issue of inclusion, and to look at your landscape in a thorough way.

And monument designations under the Antiquities Act, the nexus being the Indigenous community that drives that decision, and I find that regardless of the support that a designation might or might not have, the interest in limiting or preventing that are always very strong.

And I noticed almost every controversial issue dealing with extraction, whether it is the Grand Canyon, whether it is Chaco, whether it is Resolution, the list goes on, the Boundaries, those controversies that come to light, there is also a legacy there, and there is significant Indigenous involvement, and presence, and demand on those issues. And that is the balance issue, and that is why tools like the Antiquities Act, the rule, and others are so vital and so important.

The point and the question is, in this search for balance and landscape balance New Mexico is a great example. Tell us about

that effort, and tell us about the difficulties in getting to the point where you are at now.

Ms. RICHARD. Mr. Chairman and Congressman, New Mexico still has, alive and well and thriving, 23 tribes, 19 pueblos, the Navajo Nation, and 3 Apache Nations who have been there since, as was spoken before, before New Mexico became a state, before many of our families arrived in those areas. They managed that land.

And I have a modern-day example, actually, to give you today. They managed that land for pristine nature. The land resource is part of their identity. And we have a modern-day example in the Mescalero Apache, who manage probably one of the region's most pristine forests. They have been able to withstand wildfire damage from all areas because of the management of that forest.

So, this is a resource that goes to the heart of Indigenous culture and identity. So, when we are going back to looking at what should occur in a certain landscape, what designation should happen in a certain landscape, I believe it is always Indigenous communities, Indigenous knowledge that we should look to, first and foremost.

So, that is what we have done in the State Land Office. When we decided to do a moratorium on Chaco Canyon on new oil and gas leasing, we spent a year visiting Navajo chapter houses, inviting pueblo tribal leadership to tell us where the places were that needed protection.

Mr. GRIJALVA. Thank you.

I yield back.

Dr. GOSAR. I thank the gentleman. The gentlelady, the Ranking Member, is recognized for her 3 minutes.

Ms. STANSBURY. Thank you, Mr. Chairman.

I am actually going to follow on Ranking Member Grijalva's questions, because I think that Commissioner, what you just spoke to about the kind of consultation that you did with tribal communities was new in the history of our State Land Office and in some way, again, parallels what the Federal Government is trying to do under Secretary Haaland's leadership, and the BLM, and other Federal agencies, which is to not only make good on our treaty and trust responsibilities to our tribes, but also to ensure that they have a seat at the table, and that their cultural values, their historic landscapes, and their sacred places are a part of the planning process.

So, I wonder if you could talk a little bit about the effort that you have undertaken since you have taken the role as the State Land Commissioner to do tribal consultation at the state level, which is actually quite unique, I think, nationally, and how that has enhanced your ability to protect those landscapes.

Ms. RICHARD. Thank you so much for that question. Initially, what we did was pass a cultural protection rule, which requires archeological surveys and tribal consultation before a spade of dirt is moved on state land. And the reason is because we don't have the expertise for cultural sites that may exist on the land for landscape preservation.

We have heard from tribes that there are natural resources that are considered to be tribal cultural properties, TCPs. I don't have that knowledge. I am not an Indigenous person. So, we look to those folks, we look to their background, we look to their

knowledge of this landscape to inform the work that we do before we do the work.

Like I said before, we have been able to do this preservation, this consultation, and not risk a dime of our revenue. We still feel that it is important. It has not slowed down our business, it has not impacted our revenues, but it is necessary, nonetheless.

Ms. STANSBURY. Yes, and I think one of the things that is really important to talk about, especially since we don't have any witnesses here today that are from tribal communities or tribal leaders, is the ways in which that consultation has helped to transform also not only the opportunity to protect and preserve those spaces, but to revitalize their use for cultural purposes.

I had the tremendous opportunity last fall to go join the rest of the delegation and both pueblo and Navajo leaders at Chaco Canyon with Secretary Haaland. And one of the things that I was particularly struck by, talking to some of the pueblo leaders, is the ways in which the cultural and religious knowledge and connection to that landscape has been passed down for dozens of generations. We are talking thousands of years. And since there has been an effort under the current Administration to invite tribes to the table not only for planning purposes, the use of that space is now being used as a cultural space again for dances and for other cultural uses, which is so core to, as you said, the identity of the people of New Mexico. So, I thank you for your work.

With that, I yield back.

Dr. GOSAR. I thank the gentlelady.

Dr. Goicoechea, the Federal Government promised a Payment in Lieu of Taxes and Secure Rural Schools. Do those exist anymore?

Dr. GOICOECHEA. Do the two programs exist? Is that your question?

Dr. GOSAR. Yes.

Dr. GOICOECHEA. Yes, they do exist, sir.

Dr. GOSAR. And how much money that we were promised actually comes out of those?

Dr. GOICOECHEA. Not nearly enough money to operate the local governments.

Dr. GOSAR. Probably less than a penny of what we were promised of every dollar.

Dr. GOICOECHEA. Yes, sir.

Dr. GOSAR. Supervisor Lingenfelter, does PILT really contribute to your bottom line these days?

Mr. LINGENFELTER. Chairman Gosar, as I noted before, Mohave County has 10 percent private landownership. So, PILT plays an incredibly important role in providing the services of government in Mohave County. We get probably a fraction of what we should.

Dr. GOSAR. Yes, a fraction. We want to make sure we understand that.

Also, when you have a designation like this, you have a lot of the oversight, search and rescue, hospitalizations. All those kinds of things fall under you, right?

Mr. LINGENFELTER. Chairman Gosar, that is absolutely correct.

Dr. GOSAR. Well, I acknowledge that tribal consultation is something that we have a conversation about. It is long overdue to have a conversation about the sovereignty issue of tribes and the

relationship with states in this country. I am very much in favor of, I have been pushing for that.

Supervisor Lingenfelter, how would hunting, fishing, ATV, and potential other uses be implicated by a monument?

Mr. LINGENFELTER. Chairman Gosar, as we understand it, and in speaking with our ranching community, our agricultural community, those that come for outdoor recreation, Mohave County is very strong in natural amenities. And obviously, we have a lot of side-by-sides and those types of things.

There is a lot of concern about things that families do together, and ranching communities that are generational ranching families. In Mohave County we have five, six generations of ranching, at least, that would be negatively impacted.

Dr. GOSAR. I am going to start from the far left. What was the question that you wanted to be asked, and it wasn't asked, and what is the answer to that question?

I will start with you.

Mr. DEVLIN. Why do you want cooperative agency status, Representative and Mr. Chair? We want it so that our locals and those that represent the locals have a seat at the table. That is what it is all about, whatever the topic may be. When it comes to management of Federal lands and affecting people that are my constituents, I want to be at the table, and so do my constituents.

Dr. GOSAR. So, local consultation, right?

Mr. DEVLIN. Correct.

Dr. GOSAR. Dr. Goicoechea.

Dr. GOICOECHEA. Well, thank you very much. Local consultation is, obviously, a big one for me. But I guess the question I would like answered is, "What are the tools that this is giving to BLM that they don't currently have?" And my answer to that would be: (1) I don't know, after reading the rule five or six times; and (2) I don't believe any after reading it that many times.

The BLM foundation is already in place. It can do a lot of this work. It can enter into agreements. Nevada has demonstrated it can effectively enter into agreements and have meaningful conservation projects on the ground. Do we need them on public land? Absolutely. I don't think we need to re-invent the wheel. I think we have the tools we have now. An agency is over-burdened. They can't do the work they are challenged with now, and we are going to put another level on top of that, and we are going to see other things slide.

I would love to be just like New Mexico, have consultation, and I sure hope that the 63 percent of BLM lands are afforded the same consultation as New Mexico affords their state lands.

Dr. GOSAR. Commissioner?

Ms. RICHARD. Thank you for the opportunity. I was actually hoping to have a little bit more of a conversation especially around how state land uses our conservation leases. In particular, it was mentioned that our ranching community manages the land for conservation already, so what we have done is take advantage of those practices, put them into our conservation lease, and we are actually piloting a couple of projects on rangeland health which our biologists, our rangeland ecologists, have been a part of developing, and

I would like to see this particular rule have the same impact on Ag. lessees.

Dr. GOSAR. Great.

Supervisor?

Mr. LINGENFELTER. Thank you, Chairman Gosar. As the first gentleman said, Mohave County, we just want to make sure that the local involvement is retained, and that we are involved.

Dr. GOSAR. It makes a big deal.

I thank all the witnesses for their valuable testimony, and the Members for their questions.

The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to those in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. on Tuesday, May 30. The hearing record will be held open for 10 business days for their responses.

If there is no further business, without objection, we stand adjourned.

[Whereupon, at 11:33 a.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Gosar

American Exploration & Mining Association (AEMA)
Spokane Valley, WA

May 24, 2023

Hon. Paul Gosar, Chairman
House Natural Resources Committee
Subcommittee on Oversight and Investigations
1324 Longworth House Office Building
Washington, DC 20515

Re: May 24, 2003 oversight hearing titled "Examining the Biden Administration's Efforts to Limit Access to Public Lands"

Dear Chairman Gosar:

The American Exploration & Mining Association (AEMA) submits the following statement for the record for the above-referenced hearing.

Who We Are and the Importance of the U.S. Minerals Mining Industry

AEMA is a 128-year-old, 1,400-member national trade association representing the mineral development and mining industry, with members residing across 46 states, 7 Canadian provinces or territories and 10 other countries. AEMA is the recognized national representative for the exploration sector, the junior mining sector, as well as mineral developers interested in maintaining access to public lands. Thus, AEMA represents the entire mining life cycle, from exploration to mineral extraction and then to reclamation and closure. More than 80 percent of our members are small businesses or work directly for small businesses.

American miners continue to play an indispensable role in building and defending our Nation. From foundations to roofs, power plants to wind farms, roads and bridges to communication grids and data storage centers, America's infrastructure begins and ends with minerals and mining. As just one example, steel resulting from mining operations directly supplies the construction and development of roads, railways, appliances, buildings, stadiums, bridges, airports, conventional and renewable energy facilities, and other structures. Steel is used to reinforce concrete and other construction materials and 6 billion tons of steel are used across the U.S. National Highway System. Steel requires iron ore for its production, and 65 percent

of the global zinc consumption is used to coat steel, for purposes of making it resistant to corrosion. Other metals important to steel alloys, including manganese, chromium, nickel, aluminum, vanadium, tungsten, titanium, cobalt, and niobium, are specifically identified on the U.S. Geological Survey's (USGS') final 2022 list of critical minerals.[1]

Another example is copper, with its flexibility, conformity, conductivity, and resistance to corrosion, that make it an ideal and essential clean energy metal.[2] Forty-three percent of U.S. copper demand comes from the construction industry, as the average American home contains 439 pounds of copper. An electric vehicle (EV) uses approximately four times as much copper as a conventional car.

Infrastructure improvement and development at all levels depends on metals and mining. Beyond hard-rock mining, AEMA also represents the industrial minerals industry. Industrial minerals include any rock or mineral with economic value that is not used as a source for metals, gemstones, or energy production. Industrial minerals are classified as non-fuel minerals and differ from construction aggregates like sand, gravel, and crushed stone. Many different types of industrial minerals serve multiple uses, some of which are considered critical minerals and many of which are essential to our nation's economic and national security. The most widely used industrial minerals include limestone, clays, diatomite, kaolin, bentonite, silica, barite, gypsum, potash, pumice, and talc.

Similarly, there is no substitute for phosphorus in agriculture and in the development of our Nation's food supply. Phosphorus is essential for plant nutrition and plays a vital role in photosynthesis, energy transfer, root formation, seed formation, plant growth and improvement of the quality of fruits and vegetables. China has been the leading producer of phosphates, followed by the United States. The Society for Mining, Metallurgy & Exploration's (SME) website[3] provides a deeper introduction to industrial minerals and explains why securing domestic production is essential to America's future.

There is no question that the minerals we produce are indispensable to modern society. They are also essential to fighting climate change, and for zero-emission technologies such as wind turbines, solar panels, storage batteries and EVs. As these technologies are deployed in ever-greater numbers, the demand for minerals is skyrocketing, and our Nation must do more to keep up. The International Energy Agency (IEA) published a report at the end of July 2022 titled "Global Supply Chains of EV Batteries," and noted that demand for EV batteries will increase from 340 GWh today to about 3500 GWh by the year 2030. To meet that demand, 50 new lithium mines, 60 more nickel mines and 17 more cobalt mines would need to come into production.[4]

Congress has taken note of this surge in demand, and through the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022, has decided—and we agree—that it is inappropriate, unwise and dangerous to rely on hostile, untrustworthy or unstable countries to supply our country's minerals. Congress has sent a clear message—**Now is the time to get serious about building a reliable mineral supply chain** (emphasis supplied). AEMA and its members stand ready to help build that supply chain right here in America.

Our members take great pride in producing the metals and other important minerals America needs for national and economic security, as well as the materials people use in their everyday lives. We are proud of our members' contributions across the communities and regions where they operate, many of which are rural areas facing significant economic and social development challenges. Notably, the U.S. mining industry is the safest, most environmentally responsible mining industry in the world. Our members have repeatedly demonstrated that mining and protecting the environment are compatible, as mineral producers make possible the development of society's basic needs and consistently minimize modern society's impacts on the environment.

---

[1] https://www.federalregister.gov/documents/2022/02/24/2022–04027/2022-final-list-of-critical-minerals

[2] According to the World Bank, copper is used in ten low-carbon energy technologies. https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf

[3] https://www.smenet.org

[4] https://iea.blob.core.windows.net/assets/4eb8c252-76b1-4710-8f5e-867e751c8dda/GlobalSupplyChainsofEVBatteries.pdf

We Need a Reliable Domestic Mineral Supply Chain

Recent global events have exposed the United States' supply chain vulnerabilities, highlighting the importance of an abundant and affordable supply of domestic minerals for America's future.

The fact is, global mineral demand is skyrocketing. As noted in a report from the International Energy Agency, keeping global temperature rise to below 2 degrees Celsius above preindustrial levels will quadruple the demand by 2040 for the minerals needed to build wind turbines, solar panels, and electric vehicles. A faster energy transition—reaching net zero globally by 2050 as the Biden Administration has called for—would require critical mineral inputs to increase sixfold by 2040.

Solar panels require silver, tin, copper, and lead; wind turbines use rare earths, copper, aluminum, and zinc; electric vehicles are built with copper, aluminum, iron, molybdenum; and rechargeable storage batteries use lithium, vanadium, nickel, cobalt, and manganese. Approximately 40 percent of the gold now produced is used in electronics and computer chips that are needed for clean energy technologies to meet carbon emission reduction objectives to address climate change.

President Biden has promised to convert the entire U.S. government fleet—about 640,000 vehicles by 2030—to EVs. That plan alone could require a 12-fold increase in U.S. lithium production to manufacture the lithium-ion batteries that power EVs, according to Benchmark Minerals Intelligence, as well as increases in output of domestic copper, nickel, and cobalt—and that's just for the U.S. government vehicle fleet. The magnitude of the minerals needed for a 100 percent EV market is even more staggering, and simply cannot be ignored.

Unfortunately, a lack of access to economically viable mineral deposits and a lengthy, inefficient federal permitting system has resulted in the United States being increasingly dependent on foreign sources of strategic and critical minerals. It's time that we, as a Nation, recognize this vulnerability and the vital importance of minerals to our national security, our economy, and our everyday lives. We have heard a lot over the years about the importance of energy independence, but it is equally as important, if not more so, that we are minerals independent.

The Department of Interior's recent mineral withdrawal on the Superior National Forest is a painful example of a lack of coherence in the Biden administration's strategy in establishing robust, secure mineral supply chains that could contribute to their goals of ramping up deployment of low-or zero-carbon energy technologies to fight climate change. Projects such as Twin Metals, located within the boundaries of the Superior National Forest withdrawal, and now in serious jeopardy because of the withdrawal, could supply more than 90 percent of the United States' nickel, 88 percent of our cobalt, and roughly 33 percent of the Nation's copper. Renewable energy technologies simply do not function without these metals, especially copper.

Made in America must include "mined in America" and sourcing minerals from U.S. mines that use state-of-the-art environmental protection measures, put a premium on worker health and safety, and have financial assurances that guarantee reclamation when mining is complete.

Recycling will play an important role in meeting increasing metal demand, but it will not be enough. The IEA's report estimates that by 2040, recycling metals from spent batteries could only supply about ten percent of the minerals that will be needed.

The United States and our economy simply need more mines. According to the USGS' Mineral Commodity Summaries 2023, our country's import dependence for key mineral commodities has doubled over the past two decades, with the United States now 100 percent import-reliant for 15 of its key minerals and more than 50 percent import-reliant for an additional 36 key mineral commodities. This foreign reliance continues despite the existence of significant mineral deposits of many of these commodities within our borders. Moreover, U.S. mineral import reliance continues to increase as mineral demand from essential industries, such as energy and transportation, soars. Notably, the World Bank sees mineral demand for advanced energy technologies jumping by nearly 500 percent by the year 2050.[5] Copper demand alone may rise as much as 350 percent by 2050, according to one estimate.[6]

Mineral Withdrawals Must be Limited

In the United States, most hardrock mining takes place on federal land, after a lengthy and rigorous permitting process that involves local, state and federal regulatory agencies and many diverse stakeholders. Even after the mine begins

[5] https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf

[6] https://www.sciencedirect.com/science/article/abs/pii/S0959378016300802

operation, it must adhere to a myriad of environmental laws and regulations, and financial assurance instruments ensure that cleanup and restoration will take place when mining activities cease. However, mineral deposits are unique and rare. Unlike other economic development or infrastructure projects that have some flexibility in choosing where they are sited and can move accordingly—mineral deposits are where they are.

Almost every year, the federal lands available for mineral entry shrinks. According to the GAO, the federal government manages about 650 million acres, or 29 percent, of the 2.27 billion acres of land in the United States.[7] Former Department of Interior Solicitor, John Leshy (now a professor at the University of California Hastings College of Law), estimated in 2021 that of the approximate 650 million acres of public lands, roughly 400 million acres are set aside for conservation and preservation purposes and are functionally off-limits to mining.[8] He also calculated that during the period from 1980 to 2020, the acres of conservation and preservation lands grew from 250 million acres to 400 million acres.[9] Federal lands have been withdrawn from mineral entry to protect a variety of "special places," from national monuments and wilderness areas to military bases. For example, the National Conservation Lands System already includes 35 million acres of pristine, culturally diverse and scientifically important sites that have been withdrawn from mineral entry, including: 122 national monuments, 28 of which are managed by BLM; 23 national conservation areas; 30 National Scenic and Historic Trails; 200 designated Wild and Scenic Rivers; 260 congressionally designated Wilderness areas; and 491 wilderness study areas.[10] Congress has closed or withdrawn areas to mineral exploration in favor of other uses, including for the following:

- National Parks;
- National Monuments;
- Indian reservations;
- Various types of Bureau of Reclamation projects;
- Military reservations;
- Scientific testing areas;
- Wildlife protection areas;
- National Wilderness Preservation System and Wilderness study lands; and
- Wild and Scenic River designated and study areas.[11]

After Executive Order 14008 in which President Biden set a goal of preserving and restoring 30 percent of U.S. lands and waters by 2030,[12] AEMA grew concerned that more withdrawals were on the way. That has proven to be true, as three withdrawals have been finalized in the first half of 2023 already.

Shrinking the available land base where mineral exploration and mining are allowed reduces the number of future mineral discoveries that can become mines. This ultimately increases the Nation's reliance on foreign minerals and thwarts the country's goals to increase domestic production and become more mineral independent. A 1999 report by the National Research Council of the National Academy of Sciences notes that "Only a very small portion of the earth's continental crust (less than 0.01%) contains economically viable mineral deposits."[13] The Academy further noted that, on average, 1,000 mineral targets must be examined before discovering the deposit capable of becoming a mine. Every time we declare land off-limits to mining, we shrink the playing field and stack the odds higher against discovery.

---

[7] GAO Letter report to Senator Tom Udall entitled "*Hardrock Mining: Availability of Selected Data Related to Mining on Federal Lands*," May 16, 2019, available at: https://www.gao.gov/assets/gao-19-435r.pdf.

[8] John D. Leshy, *America's Public Lands—A Look Back and Ahead*, 67th Annual Rocky Mountain Mineral Law Institute, July 19, 2021.

[9] *Id*.

[10] BLM website: https://www.blm.gov/programs/national-conservation-lands.

[11] See BLM website: https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/locating-a-claim; *see also* Attachment 5, "List of Select Federal Laws Amending or Affecting the Mining Law of 1872," identifying principal laws under which federal lands have been withdrawn from mineral entry.

[12] *See* Executive Order 14008 "Tackling the Climate Crisis at Home and Abroad" (January 27, 2021) and the "America the Beautiful Initiative."

[13] National Academy of Sciences/National Research Council, "Hardrock Mining on Federal Lands" (1999), P. 23–24, available at https://nap.nationalacademies.org/catalog/9682/hardrock-mining-on-federal-lands

Rather than asking whether additional lands need to be withdrawn, it would be more appropriate to ask whether some previously withdrawn lands with high mineral potential should become available for mineral exploration and development to address current critical minerals availability challenges. In light of our untenable and dangerous reliance on foreign minerals, it would be in the public's best interests to determine whether certain withdrawn lands that are not part of the National Park System or congressionally designated Wilderness are more valuable for their mineral resources compared to scenic, cultural, recreational or other land uses. This evaluation should consider how the modern environmental protection standards that would apply to potential mineral development would minimize environmental impacts, maximize protection of cultural resources and scenic landscapes, require reclamation when mining is complete, and enable multiple uses on these lands for mining and nearby recreational uses both during and after mining.

As one example of how mineral withdrawals play out to this nation's detriment, in 2012, then-Secretary of Interior, Ken Salazar, finalized the withdrawal of 1 million acres of land well outside Grand Canyon National Park in Arizona. Although there was already a buffer around the park boundary in which many activities, including mining, were prohibited, advocates of the withdrawal successfully argued that an additional "buffer beyond the buffer" was necessary.

As AEMA noted in our comments on the Arizona withdrawal at the time,[14] the United States was already importing 90 percent of its uranium in 2009, and northern Arizona holds "42% of the nation's estimated undiscovered uranium endowment . . . To withdraw this critical resource from location and entry under the Mining Law, with no environmental benefit or necessity, is short-sighted and dangerous." In the wake of Russia's invasion of Ukraine on February 24, 2022, the United States has found the will to ban the import of all manner of Russian goods and commodities, but it is unable to wean itself off of Russian uranium imports—a troubling situation for domestic power generation and national security.

The Grand Canyon withdrawal is a real-world example of a problem AEMA has frequently raised in theory, and that is now playing out before us. The federal government placed federal lands off-limits to mineral entry that could have provided the uranium needed for power generation and national security purposes from highly regulated, state-of-the-art mining operations. The United States has often withdrawn federal public lands from mineral entry before fully understanding the mineral potential of the withdrawn lands. Although the United States had a considerable understanding of the deposits in northern Arizona, policy makers failed to fully weigh the long-term ramifications of the withdrawal, which are now coming into clearer focus. At a time when the need for carbon-free, baseload power is ramping up, some of the nuclear power industry's best domestic sources of uranium are inaccessible. This is a self-inflicted wound. Uranium is not currently listed as a "critical mineral," but has been designated as such in the past and given its strategic importance, should be returned to the list in the future.

Instead of learning the lesson of the Arizona withdrawal, we see history repeating itself, with the Department of Interior withdrawing world class deposits of copper, nickel, cobalt and platinum group metals, and with other withdrawals in South Dakota and Nevada this year, it seems the train is picking up speed. All this in the immediate aftermath of massive supply chain disruptions of a pandemic and a war in Europe.

As you understand by now, AEMA and our members oppose removing lands from mineral entry, but at the very least, every time a withdrawal or land use restriction is proposed to remove federal land from mineral entry, the decision makers should develop a full understanding of the land's mineral endowment.

BLM Proposed Rule on Conservation and Landscape Health

The Bureau of Land Management's recently proposed rule on Conservation and Landscape Health would significantly change the way BLM manages the 245 million acres of public land it oversees, most of it in western states. In this conservation rule, BLM asserts that the Federal Land Policy Management Act of 1976 (FLPMA) authorizes them to "put conservation on an equal footing with other uses." After nearly 50 years of responding to FLPMA's directives for administering the public lands, BLM has apparently had an epiphany that adds conservation to the multiple uses enumerated in Section 102(a) of the statute.

The proposed rule focuses on three conservation measures: 1) an expanded use of the highly restrictive Areas of Critical Environmental Concern (ACECs) designation;

[14] Northwest Mining Association (now AEMA), Comment Letter on Notice of Proposed Withdrawal, 74 Fed. Reg. 35887, October 19, 2009.

2) creating conservation leases; and 3) preserving intact landscapes. These measures are fundamentally incompatible with many of the Section 102(a) multiple uses and will functionally withdraw millions of acres of public lands from mining, logging, ranching, renewable energy development, and other important uses.

AEMA's concerns with BLM's proposed rule include, but are not limited to:

- **The proposed rule violates the law.** Despite BLM's claims to the contrary, the "plain language" of FLPMA includes a list of "principal or major uses," including mineral exploration or development, domestic livestock grazing, timber production, and a few others. The law specifies that its mandate "includes and is limited to" these uses. Notably, conservation or "nonuse" was not listed.
  - **If Congress intended for conservation to be a use "on equal footing," they would have included it in the statutory list. BLM cannot change that.** FLPMA Section 102(b) explicitly states: "The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation." Creating conservation leases and elevating conservation to a major or principal use is a substantial change, not a "clarification," as BLM asserts.
  - **BLM acknowledges the novelty of the conservation lease concept** when it says "FLPMA's declaration of policy and definitions of 'multiple use' and 'sustained yield' *reveal* [emphasis added] that conservation is a use on par with other uses under FLPMA." The idea that this concept is just now being "revealed" 50 years after the passage of FLPMA is absurd and unlawful.
  - **The rule bears many similarities to the Planning Rule 2.0 for landscape-scale planning,** which Congress repealed in 2017 through the Congressional Review Act. This proposal gives landscape-level planning a facelift by saying it is necessary to address climate change. This new justification for landscape-scale cannot be used to resurrect a concept that Congress has already rejected.
- **Conservation leases, ACECs, and preserving intact landscapes are *de facto* land withdrawals that undermine "multiple-use" standards outlined in FLPMA.**
  - The proposal would allow leases for conservation or compensatory mitigation. As worded, BLM could extend mitigation leases indefinitely, precluding the balance intended under FLPMA.
  - Future uses under the proposed rule must be consistent with the purpose of the conservation lease. In testimony before the House Natural Resources Committee on May 17, 2023, BLM Director Tracy Stone-Manning acknowledged that "energy development and mining would likely not be deemed compatible with a conservation lease . . ."
  - As such, conservation would not just be "on equal footing," it would be elevated above other uses.
- **Use of Areas of Critical Environmental Concern (ACECs) greatly expanded.**
  - Frequently abused to prevent development, the rule would allow ACEC's to be larger and easier to designate. Areas nominated are to be managed as an ACEC until the planning process completed.
  - No consideration of impacts to multiple use or mineral resources within the nominated area required.
- **The rule will exacerbate permitting delays.**
  - Under the proposal, all lands will require a "Fundamentals of Land Health" review prior to authorization for use, a process currently applied only to grazing lands. BLM already struggles with large backlogs in grazing permit renewals because of this review requirement. Applying it to all uses would only serve to increase permitting backlogs for all productive uses.

- **Creates a New Zero-Impact Standard that Ignores How FLPMA's Unnecessary and Undue Degradation Mandate Effectively Protects the Environment While Allowing Multiple Use.**
  - The rule's unnecessary or undue degradation definition restates what BLM has implemented for nearly five decades to prevent excessive or disproportionate impacts.
  - However, the new conservation measures demand zero impact in ACECs, conservation leases, and intact landscapes, which is contrary to FLPMA's acknowledgement that some degradation is necessary for multiple use to occur and the requirement to minimize that degradation.
- **The rule ignores more than 50 years of Congressional intent and direction.**
  - The Mining and Minerals Policy Act of 1970 (MMPA); FLPMA (1976); National Materials and Minerals Research Policy Act of 1980 (MMPRDA); Infrastructure, Investment and Jobs Act (2021); and the Inflation Reduction Act (2022) all direct the executive branch agencies to respond to the Nation's growing need for minerals. Instead, they are devising more ways to put land off-limits to exploration and development.
  - This will likely exacerbate our dependence on foreign sources of minerals at a time when mineral demand is skyrocketing. The Biden administration's own goals of fighting climate change and reducing carbon emissions require more domestic mining—not less. The rule fails to acknowledge any potential effects on our ability to develop minerals in the United States.
- **BLM's rule is incomplete, deficient, flawed and rushed.**
  - The Regulatory Flexibility Act requires federal agencies to prepare a regulatory flexibility analysis, subject to notice and comment under the Administrative Procedure Act, if the rule would have a significant economic impact on a substantial number of small businesses. BLM did not conduct a regulatory flexibility analysis prior to its arbitrary declaration that the rule "will not have a significant economic effect on a substantial number of small entities . . ."
  - BLM also admits that, while they believe this rule will not have an annual effect on the economy of $100 million or more, nor cause a major increase in costs or prices for consumers, they "did not estimate the annual benefits that this proposed rule would provide to the economy," a requirement under the Congressional Review Act.
  - BLM arbitrarily determined there were no federalism implications, so it did not prepare a federalism summary statement of the effects on the States, such as potential loss of economic activity or revenue.
  - BLM plans to use a Departmental Categorical Exclusion under NEPA, because the rule is "too broad, speculative or conjectural" to lend itself to "meaningful analysis." This reasoning is flawed. The rule should be subject to an EIS containing an analysis of the significant socio-economic impacts, and the environmental effects of foregoing critical and strategic mineral development.

BLM should withdraw this proposed rule.

Conclusion

Since 1970, Congress has consistently and repeatedly recognized that minerals and mining are essential to all facets of our economy, society, and national defense. For example, the Mineral and Mining Policy Act (1970), FLPMA (1976), the National Minerals, Materials Policy Research and Development Act (1980), the Energy Act (2020), the IIJA (2021), and most recently the IRA (2022) all direct the executive branch agencies to respond to the Nation's need for domestic minerals.

Unfortunately, these Congressional directives have gone largely unheeded as more lands continue to be withdrawn from mineral entry and permitting timelines, costs, and risks have become intolerable. Our risky reliance on imported minerals is a direct result of five decades of ignoring Congress' clear directives that minerals should be mined from public lands to help satisfy the Nation's need for minerals. Despite the urgent need to increase domestic mining and reduce our dependency on foreign minerals, today it can take 10 years or more to permit a mine.

The Departments of the Interior and Agriculture must start complying with the law; compliance is not discretionary. Through their land management agencies, BLM and the Forest Service, these departments must reverse the trend of the last 50 years during which it has become increasingly difficult to access potentially mineralized public lands and to secure the necessary permits to explore for minerals and build mines.

The findings in the IIJA that "critical minerals are fundamental to the economy, competitiveness, and security of the United States" and that "the Federal permitting process has been identified as an impediment to mineral production and the mineral security of the United States" must result in constructive action to streamline permitting and eliminate permitting impediments.

We look forward to continuing to work with you to ensure America has a secure and affordable supply of the minerals and metals needed for our modern society.

Sincerely,

MARK COMPTON,
Executive Director

Statement for the Record

The National Mining Association (NMA)

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 long-standing 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. Alarmingly, 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.