



Mining and Metallurgical Society of America

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Via Email and Overnight Mail

Mr. Mark Mackiewicz
PMP National Project Manager
BLM, Price Field Office
125 South 600 West
Price, UT 84501
Email: sagebrush_withdrawals@blm.gov

**Re: Comments on the Draft Environmental Impact Statement Sagebrush Focal Area
Withdrawal: Idaho, Montana, Nevada, Oregon, Utah, and Wyoming 81 Fed. Reg.
96,478 (Dec. 30, 2016).**

Dear Mr. Mackiewicz:

I. Introduction and Executive Summary

The Mining and Metallurgical Society of America (“MMSA”) is a 501(c)(6) professional organization composed of senior-level mining professionals dedicated to increasing public awareness and understanding about mining and why mined materials are essential to modern society and human well being. Our members are mining engineers, metallurgists, geologists, and other professionals who work in the mining industry in all parts of the United States. MMSA has been an advisor to Congress, was instrumental in the establishment of the former U.S. Bureau of Mines, and continues support for reasonable mining regulation. Our 109 year-old organization is dedicated to promoting and improving understanding and appreciation of the role of the U.S. mining industry. MMSA is providing these comments on BLM’s December 2016 Draft Environmental Impact Statement Sagebrush Focal Area Withdrawal: Idaho, Montana, Nevada, Oregon, Utah, and Wyoming (“DEIS”) because our members have numerous interests that are adversely affected by the proposed withdrawal.

MMSA would like to thank BLM for preparing a well written, well organized DEIS that properly discloses the socioeconomic and environmental consequences that would result if BLM’s Final EIS (“FEIS”) designates the Proposed Action to withdraw nearly 10-million acres¹ from mineral

¹ The SFA withdrawal encompasses 9,949,488 acres comprised of 3,961,824 acres in Idaho, 877,624 acres in Montana, 2,767,552 acres in Nevada, 1,843,539 acres in Oregon, 233,824 acres in Utah, and 265,085 acres in Wyoming. (DEIS at vii).

entry or any of the other mineral withdrawal action alternatives as the Agency's Preferred Alternative/Proposed Action. The data and analysis presented in the DEIS clearly establish the enormous socioeconomic harm associated with all of the mineral withdrawal action alternatives, including the Proposed Action. The DEIS also reveals that the footprint of mineral exploration and mining activities in the Sagebrush Focal Areas ("SFA") proposed for mineral withdrawal is so small that there are virtually no conservation or environmental benefits to the Greater Sagegrouse ("GSG") or its habitat that would result from the mineral withdrawal outlined in the Proposed Action or the variations to the withdrawals described in the other action alternatives.

The DEIS does not include an Agency Preferred Alternative – and for good reason – because the DEIS analysis does not support the Proposed Action or any of the other action alternatives that would implement the 20-year mineral withdrawal. It is obvious from the information presented in the affected environment and environmental consequences chapters of the DEIS that there is no justification for the proposed SFA mineral withdrawal, which would have devastating socioeconomic impacts in the SFA states (especially in Nevada, Idaho, and Wyoming) and no meaningful beneficial impacts to GSG or its habitat.

Selection of the DEIS Proposed Action as the FEIS Preferred Alternative/Proposed Action would be arbitrary and capricious because the DEIS clearly demonstrates that the proposed SFA mineral withdrawal is not necessary to protect GSG or its habitat. Therefore, MMSA believes BLM must select the No Action Alternative as the Agency's Preferred Alternative/Proposed Action in the FEIS and ultimately implement this action in BLM's Record of Decision.

II. There are No Meaningful Environmental or Conservation Benefits to Sage Grouse Associated with the Proposed SFA Mineral Withdrawal

The data presented in the DEIS reveal the footprint of mining and mineral exploration activities in the SFAs is projected to be quite limited, amounting to only 2,620 acres² across the six SFA states. These impacts are quantified as affecting only about 0.026 percent of the 10 million acre SFAs. (DEIS at 4-75)

The DEIS provides additional information about the size of the No Action mining impacts compared to the size of the proposed withdrawal area:

“...the total amount of mining related disturbance in sagebrush habitat under the No Action Alternative would be 9,554 acres, **or approximately one-tenth of 1 percent of the total withdrawal area...These disturbances could impact vegetation communities on 0.1 percent of the SFAs** with the majority of the impacts estimated to occur in Nevada and Idaho.” (DEIS at 4-71 and 4-72, bold emphasis added.)

These DEIS findings regarding the very limited size of exploration and mining-related surface disturbance impacts in the SFAs with or without the proposed withdrawal corroborate the

² The 2,620 acres is comprised of 187 acres in Idaho, 81 acres in Montana, 2,285 acres in Nevada, 66 acres in Oregon, 1 acre in Wyoming, and 0 acres in Utah. (DEIS at 2-10).

information presented in the September 2015 U.S. Fish and Wildlife Service’s (“FWS’s”) not warranted listing determination:

“...Overall, the extent of [mining] projects *directly affects less than 0.1 percent of the sage-grouse occupied range*. Although direct and indirect effects may disturb local populations, *ongoing mining operations do not affect the sage-grouse range wide*.” (FR 59858, October 2, 2015, p. 59915)

BLM must prove that withdrawing nearly 10 million acres of land from mineral entry is necessary. Based on the data presented in the DEIS, it is readily apparent that withdrawing the SFA cannot be justified. There is no reason to put 10 million acres off limits to mining to protect the land from a 2,620-acre impact. The proposed withdrawal is grossly out of proportion with the dimensions of the vast GSG range-wide habitat³ (173 million acres), the size of the 10-million acre proposed SFA mineral withdrawal, and the very limited impacts attributable to mining documented in the DEIS.

The DEIS estimates that the surface disturbance created by mineral activities in Nevada under the No Action Alternative in Nevada would impact 2,285 acres, which is only about 0.08% of the 2,767,552-acre Nevada SFA. The DEIS finds that Nevada is the SFA state with the highest level of mineral activities. The Nevada RFD for the No Action Alternative forecasts that three mines (a large barite mine, a large gold/silver mine, and a large lithium mine) would be developed, and 78 mineral exploration projects would be undertaken⁴. The DEIS shows that these activities would impact less than 0.1 percent of vegetation habitat throughout the six SFA states. Whether evaluated from an SFA-wide or a Nevada-specific perspective, the DEIS clearly proves that mineral exploration and mining have a *de minimis* impact on GSG habitat. Moreover, state and federal regulations⁵ require reclamation of these impacts when the mineral exploration and mining projects are completed, which would mitigate the long-term impacts to GSG habitat. In the case of the exploration projects, reclamation would virtually eliminate any long-term impacts to GSG habitat.

Based on the information presented in the DEIS, it is quite obvious there are no measureable environmental or conservation benefits associated with the 10-million acre SFA mineral withdrawal. The 2,620 acres of surface disturbance impacts that would occur in six states while the 20-year mineral withdrawal is in effect are trivial compared to the 10-million acre size of the SFA. If the surface disturbance were created evenly over the course of the 20-year withdrawal period, this would amount to a mere 131 acres of surface disturbance per year in the 10-million acre SFAs. Even if all of the 2,620-acre predicted surface disturbance were to occur instantly in

³ The FWS’s listing determination states: “The sagebrush ecosystem upon which the sage-grouse depends **remains one of the largest, most widespread ecosystems in the United States, spanning approximately 70 million ha (173 million ac)**”. [*Ibid*, p. 59933, bold emphasis added].

⁴ DEIS Tables 4-7 and 4-14.

⁵ BLM’s 43 CFR 3809 regulations and the US Forest Services’ 26 CFR Part 228 A regulations require reclamation of mineral exploration and mining disturbances.

the SFAs, it would impact an infinitesimally small area, measuring less than 0.1 percent of the SFAs.

The DEIS properly discloses that the withdrawal of nearly 10-million acres of GSG habitat from mineral entry would create no meaningful benefits to GSG or its habitat. Using impacts to vegetation as a proxy for impacts to GSG habitat, the DEIS states the benefits to GSG habitat are practically nil when compared to the impacts that would occur under the No Action Alternative:

“Given the relatively small area of surface impact, it is anticipated that the future exploration and development of mineral resources that might still occur under the action alternatives would not result in significant adverse cumulative impacts to vegetation resources when added to other past, present, and reasonably foreseeable activities in the proposed withdrawal area, with the Proposed Action having the potential for the most reduction in adverse impacts to vegetation.” (DEIS at Page 4-82).

The DEIS reveals that there is no meaningful difference between the impacts to GSG habitat (i.e., vegetation communities) between the No Action Alternative and the Proposed Action:

“Development of these areas has the potential to impact 2,620 acres of vegetation communities within the SFAs. These impacts represent approximately 0.026 percent of the SFAs associated with the proposed withdrawal. **Therefore impacts to vegetation would be minor over the entire withdrawal area. The types of impacts would be similar to those described under No Action Alternative.** (DEIS at 4-75, bold emphasis added).

In light of this stunning conclusion, the proposed 10-million acre mineral withdrawal serves no purpose other than to curtail mineral exploration and mining in the SFAs. Proceeding with the withdrawal would be illogical because it would cause widespread and extremely adverse socioeconomic impacts in the SFA states – especially in Nevada, Idaho, and Wyoming – while providing no environmental or conservation benefits to GSG. Consequently, there is no justification for the mineral withdrawals or reason to select the Proposed Action – or any of the mineral withdrawal actions as the Proposed Action in the FEIS. Based on the DEIS facts and analysis, the only logical outcome is for BLM to select the No Action Alternative and reject the proposed mineral withdrawal in the FEIS.

III. The Proposed SFA Mineral Withdrawals will cause Enormous and Unwarranted Socioeconomic Harm in the Six SFA States

The DEIS presents a great deal of well organized, useful, and compelling information about the adverse socioeconomic impacts that would result from implementation of the proposed SFA mineral withdrawal, including this summary:

“The Proposed Action is projected to result in approximately \$700 million less annual output, \$120 million less in labor compensation, and about 1,700 fewer jobs than the No Action Alternative. The magnitude of these potential impacts

corresponds to between 2 and 4 percent of the national economic metrics for metallic and non-metallic mineral mining.” (DEIS at 4-26)

Over the 20-year proposed withdrawal period, the proposed withdrawal would cause a jaw-dropping aggregate adverse impact of \$14 billion in reduced economic output, \$2.4 billion in less labor compensation, 34,000 fewer jobs in five of the six SFA states. Nevada, Idaho, and Wyoming would bear the brunt of these impacts.

The \$700 million loss of annual economic impact represents BLM’s analysis of the “proportionate” losses incurred based on an evaluation of a range of losses that would occur depending on the types of mines that would or would not be developed in the future as projected in the Reasonably Foreseeable Development (“RFD”) Scenario⁶ presented in Table 4-14 of the DEIS.

For example, the RFD for Nevada predicts three mines could be developed within the SFA: 1) a large barite mine in Elko County; a 2) a large gold/silver mine in Elko County; or 3) a large lithium mine in Humboldt County. Development of the three Nevada RFD mines is estimated to generate \$299,346,065 in annual revenue and create 462 jobs. The barite mine is estimated to be the least valuable mine; the gold/silver mine is projected to be the most valuable mine. (DEIS Table 4-14).

BLM’s assessment of socioeconomic impacts in Nevada that would result from implementing the Proposed Action assumes that only one of the three Nevada RFD mines would be developed. However, because BLM cannot predict which mine would be developed, the socioeconomic consequences evaluate a range of economic parameters depending on which mine is developed. To account for this range of values attributable to the three RFD Nevada mines, BLM’s socioeconomic consequences evaluation estimates that the potential socioeconomic impacts resulting from the Proposed Action would be one-third of the projected economic benefits from developing the three Nevada RFD mines under the No Action Alternative. This one-third estimate is called the “proportionate value.” The proportionate value of the losses the State of Nevada would incur under the Proposed Action are an annual loss of \$265,722,025 in economic output, 534 fewer jobs each year, a \$41,027,848 reduction in annual labor income, and \$7,912,857 less state and local tax revenue from mining per year. (DEIS Table 4-28). BLM’s analysis of the socioeconomic impacts in the other SFA states follows a similar protocol to arrive at a proportionate value.

As illustrated in Table 1, the DEIS also presents an analysis of the maximum annual losses to the SFA states that assumes the least valuable mines in each of the states would be developed over the next 20 years. In Nevada, this assumption means the barite mine in Elko County would be

⁶ The purpose of the RFD is to provide an estimate of the amount and type of future mineral development projects that could occur in the proposed withdrawal area over the 20-year duration of the withdrawal. BLM used the RFD to provide a consistent set of assumptions about the anticipated future mineral development projects that could occur in the absence of the withdrawal, and used this information to evaluate the environmental consequences stemming from the proposed withdrawal. (DEIS at iv).

developed; neither the Elko County gold/silver mine nor the Humboldt County lithium mine would be built. This analysis reveals that the states could lose as much as \$811 million in annual economic output, have 1,935 fewer jobs each year for the 20-year duration of the withdrawal, experience an annual loss of \$134 million in labor income, and be deprived of nearly \$26 million in annual tax revenues associated with mining. In Nevada, the state that would sustain the most economic damage from the SFA withdrawals, the maximum loss of economic output would be \$373,525,517 per year, amounting to a roughly \$7.5 billion loss during the 20-year withdrawal period, as shown on Table 1.

Table 1
Maximum Annual Economic Losses under the Proposed Action⁷

SFA State	Reduced Economic Output	Reduced Employment	Reduced Labor Income	Reduced State & Local Tax Revenue
Idaho	-\$114,450,879	-316	-\$22,366,516	-\$3,268,967
Montana	-\$28,088,737	-107	-\$5,745,546	-\$608,622
Nevada	-\$373,525,517	-739	-\$56,488,466	-\$11,328,311
Oregon	-\$43,690,689	-208	-\$12,493,293	-\$1,327,682
Utah	\$0	0	\$0	\$0
Wyoming	-\$251,343,346	-565	-\$37,399,441	-\$9,217,702
Totals	-\$811,099,168	-1,935	-\$134,493,262	-\$25,751,284

Cumulatively over the 20-year duration of the proposed withdrawal, the SFA states could lose over \$16 billion in economic output, have 38,700 fewer jobs, incur a loss of \$2.7 billion in labor income, and be deprived of \$520 million in state and local tax revenues. Obviously these losses would seriously impact the local and state economies of the SFA states and cause substantial harm to businesses and residents in these states. In either the proportionate value or the maximum value case, the magnitude of losses to the SFA states is enormous and unacceptable. The DEIS acknowledges that under the Proposed Action, Elko and Humboldt Counties in Nevada would experience especially difficult socioeconomic impacts:

“[In] Elko County and Humboldt County, ...the local economy is primarily based on extensive locatable mineral mining operations. The potential future mines in the proposed withdrawal areas in those counties could further expand and extend the longevity of the existing mining sector in the county, and potentially help provide ongoing employment for current miners living in the county as some of the current mines in the county reach the end of their operations. To the extent that the action alternatives preclude the development of the potential mines anticipated under the No Action Alternative, there could be a tangible adverse social impact from correspondingly higher unemployment among miners and other mine-relate workers in the future.” (DEIS at 4-62)

⁷ Data compiled from DEIS Tables 4-19, 4-24, 4-28, 4-33, and 4-37, and Section 4.3.8.

The serious, 20-year long socioeconomic impacts to the SFA states and specific counties where the SFAs are located are unwarranted and therefore unacceptable – especially in light of the miniscule environmental and conservation benefits associated with the proposed withdrawal as discussed in Section II.

IV. BLM's Withdrawal Decision Must Comply with FLPMA

The Federal Land Policy and Management Act of 1976 (“FLPMA”), 43 U.S.C. § 1701 *et seq.*, governs withdrawals of public lands from operation of the U.S. Mining Laws. Under FLPMA Section 204(c)(2), the Secretary of the Interior must provide Congress with a detailed analysis of the need for and impacts resulting from a withdrawal of more than 5,000 acres.

Two of the information criteria in Section 204(c)(2) are especially relevant to BLM's decision whether to proceed with the SFA withdrawal. Section 204(c)(2)(6) requires the Secretary to provide Congress with “a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace.” Section 204(c)(2)(8) requires the Secretary to provide “a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy.” Both of these criteria must inform and constrain the Secretary's decision whether to proceed with the withdrawal.

The data and analysis in the DEIS are responsive to both of these Section 204 information requirements. If the Secretary decides to proceed with the withdrawal of the 10-million acre SFA, the Secretary would be obligated to disclose to Congress that the No Action Alternative (i.e., no withdrawal) is a viable alternative to the 10-million acre withdrawal because withdrawing the 10-million acre SFA is not necessary to protect GSG and its habitat. Secondly, the Secretary would also have to inform Congress that the socioeconomic analysis shows that the 10-million acre proposed withdrawal would impose extremely high costs upon state and local government in the six SFA states, ranging from \$700 to \$811 million in lost annual economic output.

The Secretary's selection of a Preferred Alternative/Proposed Action in the FEIS must consider these FLPMA Section 204 criteria governing land withdrawals and whether a withdrawal will withstand the Congressional scrutiny process outlined in FLPMA § 204(c)(1). Pursuant to FLPMA § 204(c)(1), a Secretarial withdrawal of more than 5,000 acres of land requires the Secretary to give both Houses of Congress notice of the withdrawal and provide Congress with the information listed in FLPMA § 204(c)(2)(1) – (12).

Following the procedures outlined in FLPMA § 204(c)(1), Congress could use this information to evaluate whether to disapprove the withdrawal. Thus, if the Secretary determines to move forward with the 10-million acre SFA withdrawal, that decision could be subject to the FLPMA § 204(c)(1) Congressional evaluation and disapproval process. The checks and balances that FLPMA § 204(c)(1) provides to limit the Secretary's authority to withdraw large blocks of land suggests that FLPMA precludes the Secretary from proceeding with the SFA withdrawal due to the disproportionate socioeconomic impacts and the extremely limited environmental benefits. Viewed through the prism of Congressional scrutiny, FLPMA requires the Secretary to select the

No Action Alternative, reject the proposed SFA withdrawal, and terminate the 10-million acre SFA segregation pursuant to FLPMA § 204(b)(1).

Additionally, BLM must adhere to the FLPMA directives in Sections 102(a)(12) and 103(c) to manage the public lands in a balanced manner that recognizes the country's need for domestic sources of minerals. Withdrawing 10-million acres of land, including 2.8 million acres in Nevada that includes numerous known mining districts with some of the best mineral potential in the country, violates these FLPMA mandates. The DEIS is deficient on this score because it does not evaluate the impact of the proposed SFA mineral withdrawal on the nation's need for minerals in response to the FLPMA directives that public lands be managed in a manner to provide domestic sources of minerals.

V. Conclusions

The September 24, 2015 two-year segregation of the nearly 10-million acre SFAs from operation of the Mining Law have already harmed mining claimants and local communities in the SFAs. If BLM proceeds with the withdrawal despite the compelling documentation in the DEIS that it is unnecessary and unwise, the withdrawal would dramatically reduce mineral exploration and development in the western U.S.

The withdrawal would directly threaten MMSA members and also severely harm the economies of the SFA states and counties where mineral exploration and development are significant economic drivers as clearly documented in the DEIS. The withdrawal would chill investment in U.S. mineral exploration and development projects because it calls into question whether there is security of tenure for projects on public lands. Withdrawing the SFAs will reduce the number of discoveries of mineral deposits that can be developed in the future into mines, reduce state and local tax revenues from mining, adversely affect local and state governments, and increase the Nation's reliance on foreign sources of minerals.

MMSA appreciates the opportunity to provide these comments. We would like to offer our members' collective expertise in mineral resources to assist BLM in reexamining the withdrawal proposal and in developing an alternative plan that avoids the serious consequences that would result from withdrawing the 10-million acre SFA.

Respectfully submitted:



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