Testimony of
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Subcommittee oversight hearing on the status of the Bureau of Land Management and Forest Service's efforts to implement amendments to land use plans and specific management plans regarding sage grouse conservation, and those agencies' coordination activities with affected states

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Good morning. My name is Katie Sweeney and I am Senior Vice President and General Counsel of the National Mining Association (NMA). NMA is the national trade association representing the producers of most of the nation's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery, equipment and supplies: and engineering and consulting firms, financial institutions and other firms serving the mining industry. I appreciate the opportunity to testify today about the impacts of the Bureau of Land Management's (BLM) and Forest Service's land use plans related to sage grouse conservation.

To begin, I want to emphasize that NMA shares the concerns of others on this panel regarding the more onerous development restrictions imposed by the land use plans such as surface occupancy restrictions, lek buffers and disturbance caps. However, today I would like to focus my testimony on an outgrowth of the plans that uniquely impacts the mining industry – the withdrawal of millions of acres of federal land from mining.

Final Plans Recommend Large Scale Mineral Withdrawal

Based on recommendations by BLM and Forest Service in the final land use plans, the Department of the Interior (DOI) is proposing to withdraw 10 million acres of sage grouse habitat from new mining operations. As such, the land use plans have set into motion the largest land withdrawal in the history of the Federal Land Policy and Management Act (FLPMA). Mineral development is already either restricted or banned on more than half of all federally owned public lands. Given the vast amount of federal lands already closed to mining operations, excluding 10 million acres of additional lands poses serious hardship to the nation's economic and mineral security.

The Withdrawal is Not Necessary to Protect Sage Grouse or Its Habitat

Unfortunately, this withdrawal will do very little to protect the sage grouse or its habitat as mining activities are not a major threat. As the government reports prepared in conjunction with the listing determination or the land use plans uniformly conclude, wildfires and invasive species as the greatest threats to sage grouse throughout its range.

BLM summarized the impacts of these threats in its Record of Decision (ROD) approving the land use plans, stating: "The primary threats [to sage grouse] are the widespread present and potential impacts of wildfire, the loss of native habitat to invasive species, and conifer encroachment."[1] The cycle of devastating wildfires and the damage they cause to slow recovering sage-brush, coupled with the invasion of faster growing cheatgrass is well known and is without dispute the paramount driver to sage

[1] *Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region, Including the Greater Sage-Grouse Sub-Regions of Idaho, Southeastern Montana, Nevada, and Northeastern California, Oregon, Oregon, and Utah.* September, 2015, at Sec. 1.3.

grouse habitat degradation.[2] Similarly, the FWS' 2013 Greater Sage Grouse Conservation Objectives Team Report (COT Report) identifies fire as "one of the primary factors linked to loss of sagebrush-steppe habitat and corresponding population declines of greater sage-grouse."[3] The cycle of fire and pervasion of invasive species is well documented as the primary threat to sage grouse habitat. According to the COT Report:

> The increase in mean fire frequency in sagebrush ecosystems has been facilitated by the incursion of nonnative annual grasses, primarily Bromus tectorum (cheatgrass) and Taeniatherum asperum (medusahead) (Billings 1994; Miller and Eddleman 2001). The positive feedback loop between exotic annual grasses and fires can preclude the opportunity for sagebrush to become re-established. Exotic annual grasses and other invasive plants also alter habitat suitability for sage-grouse by reducing or eliminating native forbs and grasses essential for food and cover.[4]

Additionally, data compiled by the United States Geological Survey (USGS) clearly show that the habitat loss due to mining (locatable, leasable and salable) range-wide are minor, totaling about 3.6 percent, and can be mitigated with appropriate project-specific conservation measures including off-site mitigation for unavoidable impacts.[5] Such data begs the question of why BLM is deviating so significantly from its multiple use mandate in moving forward with the withdrawal.

The proposed withdrawal also ignores the role that mining companies play to improve habitat for sage grouse. For example, well-designed reclamation of mining activities on public lands can ultimately lead to higher value habitat than if the same lands were left unmanaged. This principle is particularly applicable to sage grouse habitat where mining companies work to prevent spread of invasive species and routinely restore low-value habitats into prime potential sage grouse habitat.

High Mineral Potential Lands Are at Risk

Simultaneously with the non-listing decision regarding the sage grouse, Interior began to take steps to initiate the withdrawal. To defend its position on the withdrawal, various Interior officials indicated that "the withdrawn areas do not appear to be highly prospective for miners."[6] Such blanket statements about 10 million acres are disingenuous. Historically, federal lands have been an important source of domestic

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[2] *Long-Term Effects of Wildfire on Greater Sage-Grouse— Integrating Population and Ecosystem Concepts for Management in the Great Basin,* United States Geological Survey, 2015, Page 32

[3] See, U.S. Fish and Wildlife Service, *Greater Sage-Grouse, Conservation Objectives Team (COT): Final Report*, February, 2013, pg. 10

[4] *Id*.

[5] *Summary of Science, Activities, Programs, and Policies That Influence the Rangewide Conservation of Greater Sage-Grouse (Centrocercus urophasianus)* ; USGS Open-File Report 2013–1098 p. 71

[6] *Greenwire,* "Interior proposes banning new mining on 10M sage grouse acres," Sept. 23, 2015 (available at http://www.eenews.net/greenwire/stories/1060025186/search?keyword=highly+prospective – subscription required).

mineral production. Twelve western states are the source of much of our nation's mineral endowment and these states have a significant share of federal lands. In fact, these same states account for 75 percent of our nation's metals production. Such statements also are rebutted by existing USGS and state data that was submitted during the scoping period on the proposed withdrawal.

Perhaps one of the best indicators of mineral potential in any given area are the presence of existing mining claims. BLM and Forest Service never quantified the number of existing mining claims in the area they recommended for withdrawal. Nor did BLM attempt to do so in the scoping process for the proposed withdrawal. NMA, using the BLM Land Records 2000 database, and the maps of the proposed withdrawal area, identified nearly 6000 existing mining claims in the six states impacted by the withdrawal: Idaho, Nevada, Montana, Oregon, Utah and Wyoming. This information is contained in a NMA fact sheet attached to this testimony.

The data in the fact sheet is important not only to rebut the notion that these areas are not highly prospective, but they also provide perspective about the footprint of mining activities in the proposed withdrawal area that call into question the necessity of the withdrawal. For each impacted state, NMA identified the number of existing mining claims in the proposed withdrawal area, the total acreage of those claims, and the percentage of the proposed withdrawal area impacted by existing mining claims. The results are telling. In Idaho, mining's footprint is less than one percent of the nearly four million acres withdrawn. In Montana, mining's footprint is less than two percent of the nearly one million acres withdrawn. In Nevada, mining's footprint is less than three percent of the nearly three million acres withdrawn. In Oregon, mining's footprint is less than one percent of the nearly two million acres withdrawn. In Utah, mining's footprint is less than one percent of the more than 230,000 acres withdrawn. And in Wyoming, mining's footprint is less than three percent of the more than 250,000 acres withdrawn.

State	Proposed acreage to be withdrawn from mining	Number of active mining claims in Sage Grouse Focal Areas	Acreage of active mining claims in Sage Grouse Focal Areas	Percentage of focal areas impacted by active mining claims
Idaho	3,854,622	634	13,098	0.34%
Montana	983,156	677	13,986	1.42%
Nevada	2,797,399	3762	77,722	2.78%
Oregon	1,929,580	373	7644	0.39%
Utah	230,808	9	186	0.08%
Wyoming	252,162	13	5140	2.04%

In no state, did existing mining impact more than three percent of the withdrawal area. In fact, in total, existing mining claims impact only about one percent of the 10 million acre area.

How can a 10 million acre withdrawal be justified by an activity with this small of an existing footprint? Wildfires, arguably the biggest threat to sage grouse habitat can destroy hundreds of thousands of acres of habitat in mere days. In 2015, a single fire in Idaho eliminated 200,000 acres of BLM sage grouse habitat. The footprint of mining in the withdrawal area barely registers compared to the impact of a large wildfire and as mentioned previously, the active management of mine sites routinely results in improved sage grouse habitat. BLM is clearly looking at the wrong threats in moving forward with the withdrawal.

This Withdrawal is Contrary to BLM's Multiple Use Mandate

BLM is also deviating from its own multiple use mandate and policies in pursuing the withdrawal. While the goals of FLPMA are many, including protecting the environmental and other key values of the public land, the underpinning of the statute is that management of the public land should be on the basis of multiple use and sustained yield unless otherwise specified by law. A component of such multiple use includes the requirement that public land be managed in a manner that "recognizes the Nation's need for domestic sources of minerals." BLM has in the past translated that mandate in the context of mining in its 2006 Minerals Policy Statement which indicates that with few exceptions, mineral exploration and development can occur concurrently or sequentially with other resource uses. NMA articulated in its comments on the scoping process for the withdrawal its legal concerns with BLM's failure to comply with its multiple use mandate as well as BLM's authority to withdrawal over 5000 acres of public lands without congressional action so I will not repeat those here today.

Impacts Reach Far Beyond Mining

Our domestic mining industry serves as the front-end of the supply chain for the minerals and materials vital to the success of countless other industries. Today, mining provides for nearly two million jobs with above-average wages and benefits, generates $46 billion annually in federal, state and local taxes and provides key minerals to industries that make up 14 percent of our GDP. The materials produced by U.S. mining support our healthcare, transportation, communication, energy and national defense sectors, and many others. They are the integral building blocks of everyday items like cell phones, laptops and cars, as well as infrastructure and lifesaving medical devices.

Unfortunately, we do not get to choose exactly where to mine for these critical minerals. Given the elusive nature of mineral deposits, discoveries cannot occur without widespread exploration. Such extensive exploration activities are required because concentrations of useful minerals rich enough to form ore deposits are rare phenomena. Commercially extractable concentrations form only where special physical and chemical conditions have favored their accumulation. Exploration geologists frequently cite the metric that at best approximately 1 out of 10,000 deposits has the chance to be transformed into an operating mine. The difficulty in finding commercial mineral deposits underlies the mining industry concerns about large scale mineral withdrawals, as crucial future resources may be put off limits. Finding new resources and delineating their economic potential is critical to keeping the commodity pipeline flowing.

Further limiting access to domestic minerals is poor public policy. In the past two decades, the United States' dependence on mineral imports has doubled and today, less than half of the minerals American manufacturers need are sourced domestically. U.S. industries are currently 100 percent import dependent on 19 key minerals and more than 50 percent import reliant on another 24 mineral commodities that are potentially available in the U.S. Our growing dependence on imports leaves many key domestic industries unnecessarily vulnerable to disruptions from extended, complex and fragile supply chains.

Conclusion

The proposed withdrawal is simply bad public policy that comes with a high price tag for U.S. mining and the vast sectors of our economy that depend upon a reliable and secure supply chain of minerals and metals. I appreciate the opportunity to testify before the subcommittee.