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From: Jolley, Robert
Sent: 2017-02-13T08:27:11-05:00
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Subject: Withdrawal Briefing Paper
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[Mineral Withdrawals on National Conservation Lands 2-13-2017.docx](#)
[Withdrawals Established Since FLPMA.xlsx](#)
[BP on withdrawals since 1976 2-13-2017.docx](#)

Shelley,

I made changes to the one pager and to Nikki's attachment for consistency in the briefing paper.

If Nikki is okay with those changes, I think we are set.

Robert

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**INFORMATION/BRIEFING MEMORANDUM
FOR THE ASSISTANT SECRETARY LAND AND MINERALS MANAGEMENT**

DATE: February 13, 2017

FROM: Kristin Bail, Acting Director Bureau of Land Management

SUBJECT: Mineral Withdrawals Affecting Public Lands

The purpose of this memorandum is to provide an overview of mineral withdrawals on Bureau of Land Management (BLM) lands.

BACKGROUND

The Federal Land Policy and Management Act (FLPMA) defines withdrawal as “*withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws...*” The primary laws affecting withdrawals are the Mineral Leasing Act of 1920 and the General Mining Act of 1872. The majority of lands withdrawn by the BLM are withdrawn from the General Mining Act. Withdrawals from the mineral leasing laws are less common, due to the discretion Agencies have to hold lease sales. There are three major categories of formal withdrawals: (1) Administrative, (2) Presidential Proclamations, and (3) Congressional.

Withdrawals are established for a wide variety of purposes (e.g., power site reserves, military reservations, administrative sites, recreation sites, national parks, reclamation projects, resource protection, and wilderness areas).

DISCUSSION

A list of the withdrawals identified in the BLM’s database contains 376 entries (Attachment 1), totaling approximately 47.5 million acres. This list is a synthesis of known withdrawals established since October 1976, and does not include withdrawals that existed before the FLPMA was enacted.

The BLM’s National Conservation Lands encompass 875 federally recognized areas, totaling 36 million acres. Approximately 21 million acres of National Conservation Lands are withdrawn. A description of the types of National Conservation Lands and their relation to withdrawals is provided in Attachment 2.

NEXT STEPS

The intent of this memorandum is to provide information and next steps have not been identified at this time.

ATTACHMENTS

Attachment 1: Withdrawals Established Since FLPMA (9pp)

Attachment 2: National Conservation Lands Withdrawn (2 pp)

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Attachment 2: National Conservation Lands

National Conservation Lands total approximately 36 million acres, with 21 million acres that have been withdrawn. Specific types of National Conservation Lands and their relation to withdrawals are provided below.

National Monuments, National Conservation Areas, and Similar Designations

- In general, most BLM National Monuments and National Conservation Areas are withdrawn from entry under the mineral leasing laws, subject to valid existing rights.
- Monument proclamations generally contain standard language regarding mineral withdrawal (see next page for exceptions). The standard language reads: "All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing."

Wilderness Areas

- By law (Wilderness Act of 1964), all BLM wilderness areas are withdrawn from mineral entry, subject to valid existing rights.

Wilderness Study Areas

- By law (Federal Land Policy and Management of 1976), Wilderness Study Areas (WSAs) are not withdrawn from mineral entry unless the Secretary has withdrawn them under Section 204 of FLPMA for reasons other than preservation of their wilderness character. In general, where a WSA overlaps a national monument or NCA, that area is withdrawn.

Wild and Scenic Rivers

- By law (Wild and Scenic Rivers Act of 1968), segments of rivers designated as "Wild" are withdrawn from mineral entry (segments of rivers designated as "Scenic" are not).

National Scenic and Historic Trails

- By law (National Trails System Act of 1968), national scenic and historic trails are not withdrawn from mineral entry.

Exceptions to Standard Withdrawal Language for National Monuments, National Conservation Areas, and Similar Designations

- The Desert Renewable Energy Conservation Plan ROD was signed in September 2016. Regarding mineral entry, the ROD states:

"Within 60 to 90 days after signing of the DRECP LUPA ROD, the BLM will issue a Notice of Proposed Withdrawal for a subset of the California Desert National Conservation Lands. This subset is considered Phase 1 of 2 for proposed withdrawals from mineral entry for the California Desert National Conservation Lands. A notice of proposed withdrawal would be published in the *Federal Register*, opening a 90-day public comment period. Upon publication of that notice, and subject to valid existing rights and to the extent specified in the notice, the lands identified would be segregated from location and new entry for up to two years while the Secretary decides whether to approve the withdrawal."

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SUBJECT: Mineral Withdrawals within National Conservation Lands

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<#>A relatively small percentage (likely less than 10%) of BLM lands are withdrawn from mineral entry and are primarily within Approximately 8.5% of BLM acres are withdrawn within National Conservation Lands. Of these, 5% represent withdrawals from national monuments, and national conservation areas, and wilderness areas (See Table 1. *Approximate acres withdrawn within National Conservation Lands*), and approximately 3.5% represent withdrawals from wilderness areas.

Table 1. Approximate acres withdrawn within National Conservation Lands

Unit
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- The following units have different language in their proclamations regarding mineral leasing: Canyons of the Ancients National Monument in Colorado, Headwaters Forest Reserve in California, King Range National Conservation Area in California, and Steese National Conservation Area.
 - **Canyons of the Ancients:** “[W]ithdrawn ... except for oil and gas as prescribed herein...the monument shall remain open to oil and gas leasing and development; provided [goes on to describe circumstances under which leasing and development will be allowed.]”
 - **Headwaters:** Silent on the question of withdrawals.
 - **King Range:** Appears to be withdrawn, but the language is ambiguous and does not contain the words “leasing” or “mineral”: “Section 2.(5) ...[M]anagement of the renewable resources will be such as to obtain a sustained, regular, or periodic yield or supply of products or services without impairment to the productivity, or the enjoyment or carrying capacity of the land... Section 5.(5) ...[T]he lands in the Area described in Section 9 of this Act are withdrawn from all forms of entry, selection, or location under existing or subsequent law, except as provided in section 6... (6) [S]ubject to valid existing rights, nothing in this Act shall affect the applicability of the [U.S.] mining laws on the federally owned lands within the Area, except that all prospecting commenced or conducted after the date of enactment of this Act shall be subject to...reasonable regulations....”
 - **Steese:** “Section 402 (c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.”