

**Kimberly MacMillan**

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From: **Holly Propst** <[holly@wbrt.org](mailto:holly@wbrt.org)>

Date: Wed, May 4, 2011 at 5:33 PM

Subject: Northern Arizona Proposed Withdrawal DEIS / BLM Arizona Strip District Office

To: [nazproposedwithdrawal@azblm.org](mailto:nazproposedwithdrawal@azblm.org), [azasminerals@blm.gov](mailto:azasminerals@blm.gov)

Northern Arizona Proposed Withdrawal Project  
Scott Florence, District Manager  
Bureau of Land Management  
Arizona Strip District Office

***RE: Northern Arizona Proposed Withdrawal DEIS / BLM Arizona Strip District Office***

Dear Mr. Florence:

The Western Business Roundtable appreciates the opportunity to comment on the proposed Draft Environmental Impact Statement (DEIS) associated with proposed withdrawal of mining access on a vast stretch of Bureau of Land Management (BLM) lands in Arizona. Please find our comments attached.

Sincerely,

Holly Propst  
Executive Director / General Counsel  
Western Business Roundtable

Northern Arizona Proposed Withdrawal Project  
Scott Florence, District Manager  
Bureau of Land Management  
Arizona Strip District Office  
345 East Riverside Drive  
St. George, Utah 84790-6714

***RE: Northern Arizona Proposed Withdrawal DEIS / BLM Arizona Strip District Office***

Dear Mr. Florence:

The Western Business Roundtable appreciates the opportunity to comment on the proposed Draft Environmental Impact Statement (DEIS) associated with proposed withdrawal of mining access on a vast stretch of Bureau of Land Management (BLM) lands in Arizona.

In 2009, Secretary of the Interior Ken Salazar proposed the withdrawal from location and entry under the 1872 Mining Law, subject to valid existing rights, of a vast acreage of federal lands in the so-called “Arizona Strip” (Coconino and Mohave Counties, Arizona). The DEIS’s Preferred Alternative supports the Secretary’s request, proposing withdrawal of minerals in 1,010,776 acres near Grand Canyon National Park for 20 years. (76 *Fed. Reg.* 9594).

The Western Business Roundtable is a broad-based coalition of companies doing business in the Western United States. Our members are engaged in a wide array of enterprises, including: manufacturing; retail energy sales; mining; electric power generation and transmission; energy infrastructure development; and oil and gas exploration, development, transportation and distribution. We work to defend the interests of the West and support policies that encourage economic growth and opportunity, freedom of enterprise and a common-sense, balanced approach to conservation and environmental stewardship.

A number of our member organizations are active in energy and minerals exploration and development activities on public lands. We understand, firsthand, how critically important it is to have clear and consistently applied rules governing access for those purposes.

The Roundtable is perplexed by the withdrawal proposal and fears it will have unintended consequences, both to domestic minerals policy and to the nation’s energy and economic security. We strongly urge BLM to rethink its recommendation and to instead support Alternative A (“No Action”) in the DEIS.

## **ROUNDTABLE GENERAL COMMENTS**

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The opinions expressed in this letter represent the views of a majority of Roundtable Members, but not necessarily all of our members.

The stated purpose of the proposed withdrawal is to “*protect the Grand Canyon watershed from adverse effects of locatable hardrock mineral exploration and mining*” for a 20-year period. Yet, this explanation begs many more questions than it answers.

The Roundtable is sincere in our appreciation and adamant in our support for the protection of the Grand Canyon National Park. Obviously, its unique and awe-inspiring attributes must be honored and safeguarded. And, in fact, federal land managers have at their disposal a robust set of regulatory tools to do so: the Clean Air Act (CAA), the Clean Water Act (CWA), the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) all apply to these lands. Federal land management plans and state and local permitting regimes overlay and implement that extensive web of laws. This elaborate system of requirements and permits is designed precisely to assure that activities that occur on public lands are carried out in an environmentally responsible manner.

It is important to stress that the hardrock mining sector – including uranium producers – have a strong legal basis to argue their right of access to the lands in question. The General Mining Laws confer a statutory right to U.S. citizens to enter upon open National Forest System (NFS) lands reserved from the public domain to search for and develop locatable minerals and engage in activities reasonably incident for such uses. The BLM manages mining operations on public lands under the 1872 Mining Law and FLPMA, which confer similar rights.

While citizens have the right to conduct mineral exploration and development on lands authorized by the United States mining laws, they also must comply with other applicable federal and state laws, regulations and rules including, among others, the environmental statutes listed above. The uranium industry has a long and strong track record in northern Arizona: the industry has proven that mining and environmental stewardship are not mutually exclusive.

With this elaborate system of checks and balances in place, it is far from clear what problem the Department is seeking to solve with this huge withdrawal of lands. Barring some abrogation of duties by the federal land managers in question to properly enforce federal environmental compliance requirements, what exactly is the extraordinary emergency that would justify simply shutting off a million acres of land from an otherwise legal activity?

Logically, “emergency withdrawal” implies several things: 1) evidence that environmental degradation is occurring; 2) evidence that the current suite of environmental laws, regulations, agreements, etc. cannot be applied to fix the problems; 3) evidence that the problems are of such scope that emergency withdrawal is the only way to safeguard the resources being impacted.

Here, the misapplication is beyond obvious: not only is there a comprehensive set of environmental requirements in place, but there is a good track record of compliance by uranium producers. In fact, the evidence points to the fact that current system of protections -- down to and including specific project reviews -- is working well.

## **WITHDRAWAL AT ODDS WITH LEGAL OBLIGATIONS**

The Northwest Mining Association has provided – as part of its comments – a detailed description of the many laws and regulations that govern access to, and treatment of, hardrock mining claims on federal

lands. We wish to associate ourselves with NWMA's comments and incorporate, by reference, their detailed discussion of the access federal land managers are statutorily required to provide for the exploration and development of hard rock minerals on federal lands.<sup>1</sup>

## **IMPLICATIONS FOR DOMESTIC ENERGY POLICY**

This withdrawal is not just about lands in Arizona. It has profound implications for the nation's economic and energy security. Three facts are worth emphasizing:

- Nuclear power currently accounts for approximately 20 percent of the nation's electrical production (zero-emissions power, we might add).
- The United States currently imports 90 percent of the uranium necessary to power those plants.
- The U.S. Geological Survey estimates that the Arizona Strip holds 42 percent of the United States' undiscovered uranium endowment (the equivalent of 13 billion barrels of oil).

We are hard-pressed to understand how locking down nearly half of the nation's known uranium reserves makes sense. It is just the latest in a growing string of Administration actions that are virtually guaranteeing our nation's long-term dependence on foreign (and often hostile) sources of energy. Such profound policy incoherence is placing our nation's security and economic success in serious jeopardy.

## **WITHDRAWAL POLICY MIS-ALIGNED WITH EXECUTIVE ORDER 13563**

On January 18, 2011, President Obama issued Executive Order 13563, "*Improving Regulation and Regulatory Review*." The Order directed all federal agencies to develop and submit plans to identify and review existing regulations that can be made more effective and less burdensome, while achieving regulatory objectives.

The Roundtable filed extensive comments to DOI outlining our concerns regarding the Department's approach.<sup>2</sup> Many of the concerns we expressed apply to the case at hand. We would like to incorporate that document, by reference, in our comments.

We acknowledge that the Department has a difficult set of tasks to manage. It is responsible for utilizing the vast natural resources within its lands portfolio to advance the nation's economic, energy and mineral security interests, while acting as a steward of the fish, wildlife and habitats existing on those lands.

We are concerned that, over the past few years, the careful balance that has always characterized responsible Western resource planning has been lost. Of particular concern is the stated intention by the

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<sup>1</sup> Northwest Mining Association, Comments, *Northern Arizona Proposed Withdrawal DEIS*: [http://www.westernroundtable.com/Portals/0/Docs/Mining/2011/NWMAComments\\_WithdrawalDEIS\\_5-4-11.pdf](http://www.westernroundtable.com/Portals/0/Docs/Mining/2011/NWMAComments_WithdrawalDEIS_5-4-11.pdf)

<sup>2</sup> Western Business Roundtable, Comments, *DOI Retrospective Review under E.O. 13563*: [http://www.westernroundtable.com/Portals/0/Docs/RegReform/WBRT\\_comments\\_DOI\\_RegReform\\_3-28-11\\_FILED.pdf](http://www.westernroundtable.com/Portals/0/Docs/RegReform/WBRT_comments_DOI_RegReform_3-28-11_FILED.pdf)

current Department to shift its priorities from a “multiple use” concept of public lands management (as dictated by statutes such as the Federal Land Policy Management Act FLPMA and the 1872 Mining Law, etc.) to one that actively seeks to limit energy and resource development. Leasing and permitting -- where allowed -- involve increasingly arduous and economically prohibitive regulatory processes.

The Department needs to rethink its heavy-handed approach to public land management. Its use of unilateral, “stroke of the pen” land designations and restrictive leasing policies are causing process concerns and economic uncertainty in the West. From the recently-launched Wild Lands Policy, to this “emergency” land withdrawal, to suggested unilateral designation of national monuments, to restrictive mineral, energy and livestock leasing policies, we have watched as DOI has moved aggressively to undercut the statutorily-mandated and time-tested multiple-use concept of public lands’ management.

We would suggest that DOI respect the spirit and substance of standing statutes and long-standing processes and submit its suggestions for expansive changes in land management to Congress for review. Congress should also provide for state and local input before any such designations take place. This is a “good government” reform that would be broadly embraced by Western Congressional delegations, state and local governments and the millions of impacted citizens in the region.

## **WITHDRAWAL SHOWS INCOHERENCE OF ADMINISTRATION “CLIMATE” POLICIES**

The locking down of access to nearly half the nation’s known uranium reserves is particularly perplexing, coming from an Administration that is clearly committed to implementation – with or without Congressional approval – of a federal climate policy. We are hard-pressed to see how such a policy can be achieved without a vigorous commitment to nuclear energy and the domestic uranium resources that would fuel the sector.

## **CONCLUSION**

For all the reasons stated above, the Secretary of the Interior should cancel the withdrawal proposal. In the absence of that action, we urge the BLM to thoroughly analyze the devastating consequences of the Secretary’s proposal and select Alternative A -- the “No Action” alternative – of the DEIS.

Sincerely,



Holly Propst  
General Counsel/ General Counsel  
Western Business Roundtable