

October 7, 2021

The Honorable Deb Haaland
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Balancing mining with fish and wildlife conservation on public lands

Dear Secretary Haaland,

The undersigned hunting, fishing and conservation organizations are writing to encourage the Department of the Interior to take a hard look at current mining regulations and take steps to ensure that while our country is securing critical minerals necessary for clean energy technologies, that we are doing so in ways that will not threaten fish and wildlife habitat and our hunting and fishing traditions.

Our organizations represent hundreds of thousands of hunters and anglers nationwide who share in a collective belief that healthy public lands are essential for sustaining our hunting and angling traditions. To be clear, we are not categorically opposed to mining, including on public lands. Much progress has been made in the field of mining to minimize impacts from operations, including greater consideration of fish and wildlife habitat. But the track record of mining is not perfect, nor can it be expected to be perfect in the future. Also, there are numerous studies documenting negative impacts of mining on several species, including greater sage-grouse, mule deer and other big game animals, and native species of fish. The need to balance responsible mining with public land values, including quality hunting and fishing opportunities, clean water, and outdoor recreation is an immense challenge, but it is an essential challenge.

Scaling up renewable energy technologies is central to the Biden Administration's efforts to combat climate change, but this will likely come with an increase in mineral exploration and extraction on both private and public lands. Accordingly, the 100-day supply chain review, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based*, ordered by Executive Order 14017 recommends establishing an "interagency team with expertise in mine permitting and environmental law to identify gaps in statutes and regulations that may need to be updated to ensure new production meets strong environmental standards throughout the lifecycle of the project." We support this effort and believe that it is a valuable opportunity to bring together stakeholders from the mining industry, renewable energy sector, and conservation interests to chart a responsible path forward for critical minerals.

The 100-day review also found that the Department of the Interior "should strengthen the regulations governing mining on public lands." We encourage the Department to take a fresh look at applicable mining regulations, including subpart 3809, and identify opportunities to better-balance increased domestic mineral production with the conservation of fish and wildlife habitat. In particular, the definition of "unnecessary or undue degradation" should be revisited. A clear, objective and substantive standard should support Federal Land Policy and Management Act's definition of multiple use, including the "harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment."

Additionally, 43 CFR § 3809.420(f) currently requires that an “operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.” First, we would remind DOI of the mitigation hierarchy and argue that avoidance of critical and sensitive habitats is the first – and almost always the best - step to prevent adverse impacts. Also, this performance standard should apply far more broadly than only threatened and endangered species. Numerous fish and wildlife species are not listed, but have suffered significant populations declines, further exacerbated by the effects of climate change. Greater sage grouse and certain species of native trout and salmon are but a few examples. Moreover, migration corridors and habitat connectivity are critical components for wildlife, and a poorly placed mine in the migration corridor of big game animals like mule deer could have devastating impacts on populations as there is credible evidence to suggest migrations cannot be replicated somewhere else (i.e., they cannot be mitigated).

For these reasons, extending the performance standard under 43 CFR § 3809.420(f) to all species of greatest conservation need identified in State comprehensive wildlife conservation plans, as well as any species or habitats state wildlife agencies express concern for during consultations (e.g., crucial winter range for pronghorn), would better account for the need to prevent impacts to sensitive fish and wildlife species that may push them toward populations declines or ultimately a listing decision.

Any effort to update mining regulations should be undertaken with transparency, open dialogue and engagement with all affected stakeholders, and be grounded in science to ensure regulatory changes are warranted, durable and support both fish and wildlife conservation and the responsible production of critical minerals. If approached in this manner, we believe that the Biden Administration can strike the appropriate balance.

We thank you for considering our perspective and look forward to working with the Department as you move forward with recommendations from the 100-day supply chain report.

- Backcountry Hunters & Anglers
- National Deer Association
- National Wildlife Federation
- Sportsmen for the Boundary Waters
- Theodore Roosevelt Conservation Partnership
- Trout Unlimited

Cc:

Laura Daniel-Davis, Principal Deputy Assistant Secretary of Land and Mineral Management, DOI
Steve Feldgus, Deputy Assistant Secretary for Land and Minerals Management, DOI
Nada Culver, Deputy Director of Policy and Programs, BLM