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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 28, 2017

The Honorable Sonny Perdue
Secretary of Agriculture
1400 Independence Avenue SW
Room 200-A
Washington, DC 20250

The Honorable Ryan K. Zinke
Secretary of the Interior
1849 C Street NW
Mail Stop 7328
Washington, DC 20240

Dear Secretaries Perdue and Zinke,

As you know, the Departments of Agriculture and the Interior are responsible for the protection and management of the natural resources of the United States. Under this mandate, the Departments administer approximately 700 million acres of Federal mineral estate in the United States. The Federal Lands Policy Management Act (FLPMA) defines one of the responsibilities of Federal land stewardship as ensuring "the United States receive[s] fair market value of the use of the public lands and their resources."[1]

Under your combined leadership, I'm encouraged that this Administration has begun to faithfully fulfill this statutory directive. Unfortunately, under the prior Administration, mineral access on Federal land was regularly and systemically blocked, harming our nation's economic and strategic potential. Indeed, millions of acres of Federal lands were inappropriately withdrawn from mineral access due to false premises of environmental protectionism and the intentional misuse of statutory authority.

For instance, in the waning hours of the prior Administration, an order was published in the Federal Register withdrawing over 100,000 acres of Forest Service and Bureau of Land Management lands from mineral entry for 20 years.[2] The two projects affected by this illegal withdrawal are believed to hold significant quantities of several strategic and critical minerals including nickel, scandium and cobalt. Today, the United States imports 100% of our scandium

[1] 43 U.S.C. 1701.
[2] 82 Fed. Reg. 4415.

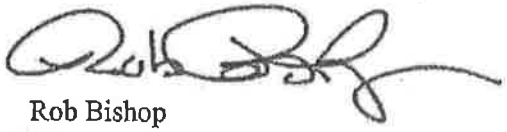
(mostly from China), 76% of our cobalt and more than 90% of our nickel requirements thus making this withdrawal inconsistent with national security interests.

This withdrawal was improperly justified as being valid under FLPMA "while Congress considers legislation to permanently withdraw those areas."[3] Such a justification is flatly wrong for several reasons. First, the order greatly extended beyond the 5,000 acres of withdrawals that FLPMA allows.[4] Second, no legislation that would have achieved the goals of the withdrawal was being considered at that time – indeed, as the 115th Congress had just begun, no legislation effecting these withdrawals had even been introduced. Further, if such legislation had been introduced, mere introduction does not rise to the level of "consideration" contemplated by FLPMA – for if it did, then it is likely no public land would be accessible for mineral entry. As such, the justification for executive withdrawal was clearly lacking.

Unfortunately, the immediate action was one of many baseless withdrawals carried out by the prior Administration. Therefore, I ask you both to conduct a comprehensive and expedited review of all mineral withdrawals executed in the past eight years to determine those of merit and those whose purpose served only to block appropriate development under FLPMA. Further, I ask you to review and reform any Departmental guidance documents, including instructional memoranda, which would otherwise allow for such unjustified withdrawals to occur.

As Chairman of the Natural Resources Committee, I remain committed to ensuring the public, including industry, has access to our public lands. I look forward to receiving input from you as to how this Administration will proceed on mineral withdrawals.

Sincerely,



Rob Bishop
Chairman

Cc: The Hon. Raul Grijalva, Ranking Member, Committee on Natural Resources

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[3] *Id.*
[4] *See* 43 U.S.C. 1714(d)(3).