From: Dreher, Robert
To: Dan Ashe
Cc: Noreen Walsh; Gary Frazer
Subject: Re: Mineral Wdrawal
Date: Wednesday, May 13, 2015 3:10:28 PM

Long discussion aimed at framing the way the issues of mining withdrawal gets presented to Sally Friday at a briefing (you've been invited, I think; I was not). There is agreement on some important basic points: (1) FWS needs a clear statement from the Secretary, early this summer, that she intends to act on BLM's recommendations, and that, without predetermining the outcome of her decision process, she understands the conservation importance of protecting the focal areas from potential mining development; (2) the BLM recommendations will trigger an automatic sequestration of the recommended areas from the Mining Law for a period of 2 years, during which the final decision will be made; (3) the Secretary's decision process will need to consider the mineral values of the lands recommended for withdrawal, as well as their conservation value, and will need to consider public input, and be supported by a NEPA document; (4) the possibility already exists for parties to submit petitions seeking revocation of a withdrawn parcel.

As to the last point, Sarah and some other folks think we really need to emphasize how we're not locking these lands up arbitrarily, and can be flexible if new information shows high mineral values; Jim and I stress FWS's need for relative certainty that the focal areas will be protected for 20 years. My sense is that we will end up acknowledging the possibility of future reconsideration as a safety valve, and if we do that, we should try to put clear standards in place up front for what would qualify - a mineral resource of national importance, and assurance that, with appropriate mitigation, mining development on the parcel in question will not adversely affect the conservation status of the GSG. Sarah thinks that is too stringent, but Tommy seemed comfortable with that general balance. Bret noted that we can't really bind a future Secretary, but I suggested we try to embed these standards in Sally's ROD adopting the withdrawals to make it as hard as possible for a future Secretary to revoke the withdrawals on a lesser showing.

Bottom line is that we still need to work on this issue, and the briefing for Sally will keep to a general outline of the issue, without providing definitive text.

On Wed, May 13, 2015 at 2:46 PM, Dan Ashe <d_m_ashe@fws.gov> wrote:

> Thanks Noreen. Bob, is there a report from the 12:30 meeting?
>
> Sent from my iPhone
>
> On May 13, 2015, at 12:28 PM, Noreen Walsh <noreen_walsh@fws.gov> wrote:
>
>> Dan,
>>
>> I also called Bob to discuss, sensing urgency. The last two clauses are not my favorite, see below all CAPS:
>>
>> The Secretary will consider BLM's recommendations for withdrawal of the lands within the Sagebrush Focal Areas through a public process that will engage the public, States, and other stakeholders. <u>The process will include consideration of the mineral potential and importance as sagebrush habitat of the areas recommended for withdrawal.</u> THIS CLAUSE INVITES PIECEMEALING A WITHDRAWAL INTO SMALLER AND SMALLER AREAS AS OPPOSED TO PROTECTING THE LARGER LANDSCAPE.

In addition, the Secretary will consider a process for future reconsideration of a withdrawal, on a site-specific basis, if new information indicates that there exists a mineral deposit of national significance in a particular location and that mineral exploration or development could go forward without adverse impacts to greater sage-grouse at that location. WHILE I PREFER NOT TO SIGNAL THAT LANDS WILL BE WITHDRAWN AND THEN THE WITHDRAWAL REVOKED, A PROCESS ALREADY EXISTS FOR REVOKING WITHDRAWALS SO NO NEED TO INVENT ONE. I RECOMMEND DROPPING THIS SENTENCE ENTIRELY OR STATING: "Should scientific information in the future indicate that sage grouse populations are secure, and would not be impacted directly or indirectly by exploration or development of minerals of national significance in a particular area, that area might be considered for revocation of withdrawals."

This is my best recommendation to you regarding certainty into the foreseeable future, recalling that the NTT report called for withdrawal in ALL Priority Habitat. Having said that, I would not fall on my sword over these.

Noreen

Noreen Walsh

Regional Director

Mountain-Prairie Region

U. S. Fish and Wildlife Service

303 236 7920

From: Dan Ashe [mailto:d_m_ashe@fws.gov]
Sent: Wednesday, May 13, 2015 9:59 AM
To: Noreen Walsh
Subject: Fwd: Mineral Wdrawal

Bob's language.

Dan Ashe

Director, U.S. Fish and Wildlife Service

Begin forwarded message:

From: "Dreher, Robert" <robert_dreher@fws.gov>
Date: May 13, 2015 at 8:46:39 AM MDT
To: "Greenberger, Sarah" <sarah_greenberger@ios.doi.gov>
Cc: Dan Ashe <d_m_ashe@fws.gov>, "Lyons, James" <james_lyons@ios.doi.gov>, Karen Kelleher <kkelleh@blm.gov>, Amy Lueders <alueders@blm.gov>, Gary D Frazer <gary_frazer@fws.gov>, Kate P Kelly <Kate_Kelly@ios.doi.gov>, Ted Boling <Ted.Boling@sol.doi.gov>, Bret Birdsong <bret.birdsong@sol.doi.gov>, Neil G Kornze <nkornze@blm.gov>, Steven Ellis <sellis@blm.gov>, Tommy Beaudreau <tommy_beaudreau@ios.doi.gov>, Michael Connor <michael_connor@ios.doi.gov>
Subject: Re: Mineral Wdrawal

For ease of review, I've pasted below the clean version of my proposed text:

The Secretary intends to act promptly on recommendations from the BLM for land withdrawals to safeguard proposed Sagebrush Focal Areas that anchor the range-wide conservation strategy for greater sage-grouse from potential future mining claim locations.

Mining operations could have a significant impact on habitat and on greater sage-grouse populations in the Sagebrush Focal Areas.

Unlike other resource uses on BLM lands, the Mining Law of 1872 gives the BLM only limited authority to control the placement and extent of locatable mineral development through land use planning provisions or permit approvals. The uncertainty regarding the potential for future mining claims, their location, and the extent of development that they may entail raises concerns regarding the ability of BLM to maintain long-term protection of these most sensitive and important areas for conservation of the greater sage-grouse.

Withdrawal of the lands within the Sagebrush Focal Areas from location and entry under the 1872 Mining Law would create greater certainty regarding the long-term protection of these areas for the Fish and Wildlife Service as it determines whether the greater sage-grouse warrants protection as a threatened or endangered species. If approved, a withdrawal would be subject to valid existing rights, and consequently would not affect mineral development activities on valid mining claims and sites that predate the withdrawal.

The Secretary will consider BLM's recommendations for withdrawal of the lands within the Sagebrush Focal Areas through a public process that will engage the public, States, and other stakeholders. The process will include consideration of the mineral potential and importance as sagebrush habitat of the areas recommended for withdrawal.

In addition, the Secretary will consider a process for future reconsideration of a withdrawal, on a site-specific basis, if new information indicates that there exists a mineral deposit of national significance in a particular location and that mineral exploration or development could go forward without adverse impacts to greater sage-grouse at that location.

On Wed, May 13, 2015 at 10:38 AM, Dreher, Robert <robert_dreher@fws.gov> wrote:

I've taken a stab at editing these talking points to make them something closer to a statement by the Secretary (as I have noted, a clear statement by the Secretary would provide the greatest assurance to FWS). I've tried to navigate the delicate balance between assuring FWS that these withdrawals are likely to be implemented and avoiding pre-determination of the final decisions by stating that the Secretary "intends to act promptly" on BLM's recommendations, and providing a clear statement, ideally by the Secretary herself, of the benefits that withdrawal would provide in terms of assuring long-term protection of the Sagebrush Focal Areas. Nonetheless, the statement makes clear that there will be a decision process and promises to engage the public, States, and stakeholders. Finally, the statement indicates that the Secretary will

consider a process for reconsideration of lands subject to withdrawal, on a site specific basis, where new information indicates that a mineral deposit of national significance exists and can be developed without adverse impact on sage grouse in the area.

I deleted the language about providing "a more granular analysis" of mineral potential; I wanted to leave the question of whether there needs to be additional analysis, beyond what is contained in BLM's plans, open.

On Wed, May 13, 2015 at 9:27 AM, Greenberger, Sarah <sarah_greenberger@ios.doi.gov> wrote:

(b) (5) [redacted] We can discuss how we navigate that line.

On Wed, May 13, 2015 at 1:13 AM, Dan Ashe <d_m_ashe@fws.gov> wrote:

Here are my thoughts. If we are trying to get to a "not warranted" determination, then my team needs to have confidence that the Secretary actually intends to follow through on a BLM recommendation. Therefore, I suggest we remove some of the language that they will see as equivocal. I completely support Jim's recommended language, and suggest inserting it in this text.

Dan.

(b) (5) [redacted]

[redacted]

[redacted]

(b) (5) [redacted]

[redacted]

(b) (5) [redacted]

Dan Ashe

Director, U.S. Fish and Wildlife Service

On May 12, 2015, at 1:44 PM, Lyons, James
<james_lyons@ios.doi.gov> wrote:

> My thoughts attached.
>
> In sum: I would **only consider a revocation for minerals of national significance** (e.g., rare earth) AND either development would have no impact on

GRSG or effects are minimal and can be mitigated to a net conservation gain.

Jim

On Tue, May 12, 2015 at 1:22 PM, Greenberger, Sarah <sarah_greenberger@ios.doi.gov> wrote:

Here are updated TPs to serve as a starting point for discussion tomorrow. They don't discuss a global review at any point. They still don't talk about the relative absence of development interest in these areas. We can work on that piece but I don't think it's central to the policy discussion at this point.

On Thu, May 7, 2015 at 5:17 PM, Greenberger, Sarah <sarah_greenberger@ios.doi.gov> wrote:

Here are the bullets we discussed today. Kate and I will work on phrasing the absence of interest/potential. Please get me edits/thoughts and I will compile. Thanks! Sarah

--

Jim Lyons

Deputy Assistant Secretary

Land and Minerals Management

Jim_Lyons@ios.doi.gov

202-208-4318 (direct)

202-815-4412 (mobile)

<Locatable Mineral Talking Points_v5_JRLcomments.docx>

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Bob Dreher

Associate Director

U.S. Fish and Wildlife Service

(202) 208-4070

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Bob Dreher

Associate Director

U.S. Fish and Wildlife Service

(202) 208-4070

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Bob Dreher
Associate Director
U.S. Fish and Wildlife Service
(202) 208-4070