



# Position Statement

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## CRITICAL AND STRATEGIC MINERALS ON THE PUBLIC LANDS

### EXECUTIVE SUMMARY

Mineral development is recognized as an appropriate multiple-use of the public lands under Section 103(c) of the Federal Land Policy and Management Act of 1976 (FLPMA). The 1872 Mining Law also provides for the exploration and development of mineral resources on the public lands and the Bureau of Land Management is responsible for the regulations that oversee the implementation of the Mining Law in the 11 western states and Alaska. Although the world has changed a lot since the Mining Law was enacted and technology has made great advances in mineral exploration and mining practices, there is still a need to explore for and develop minerals from the public lands. Many of the critical minerals that are needed for our Nation's economy are located on the public lands and new uses are continuing to emerge; for example, lithium for electric vehicle batteries. The BLM should review and redraft policy statements regarding Critical Mineral exploration and development to emphasize, in accordance with EO 13817, their place in land use management plans, applying multiple-use principles to those decisions. The BLM also needs to ensure procedures are in place to prevent unnecessary and undue degradation of the lands as required by Section 302(b) of FLPMA.



Rare Earth Oxides, USGS photo

### BACKGROUND

The United States is heavily reliant on imports of certain mineral commodities that are vital to the Nation's security and economic prosperity. Pursuant to Executive Order 13817 of December 20, 2017, "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," the Secretary of the Interior in May 2018, finalized an initial list of 35 critical mineral commodities. The Energy Policy Act of 2020 subsequently required the Secretary of the Interior to prepare and update the list of critical minerals at least every three years. The U.S. Geological Survey, on behalf of the Secretary, on February 22, 2022 published an updated list of 50 mineral commodities deemed critical under the definition provided in the Act. These are aluminum (bauxite), antimony, arsenic, barite, beryllium, bismuth, cerium, cesium, chromium, cobalt, dysprosium, erbium, europium, fluorspar, gadolinium, gallium, germanium, graphite, hafnium, holmium, indium, iridium, lanthanum, lithium, lutetium, magnesium, manganese, neodymium, nickel, niobium, palladium, platinum group metals, praseodymium, rhodium, rubidium, ruthenium,

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samarium, scandium, tantalum, tellurium, terbium, thulium, tin, titanium, tungsten, vanadium, ytterbium, yttrium, zinc and zirconium. Potential deposits of many of these critical minerals are located on the public lands.

On February 24, 2021, the President signed Executive Order 14017 on America’s Supply Chains, ordering federal agencies to identify vulnerabilities in key U.S. supply chains and develop policy recommendations to make these supply chains more resilient, diverse, and secure. This EO led to a 100-day review of risks in the supply chains of four sectors: semiconductor manufacturing and advanced packaging, high-capacity batteries (including electric vehicle batteries), critical minerals and strategic materials (including rare earth elements), and pharmaceuticals and active pharmaceutical ingredients.

The Administration then announced key findings from the reviews directed under EO 14017. One of the key findings in the final report where the BLM within the Department of the Interior and the U.S. Forest Service within the Department of Agriculture could immediately make a difference – is as follows:

Identify potential sustainable production and processing locations for critical minerals: “The United States’ non-fuel mineral resources are significantly under-mapped relative to those of other developed nations. The Department of the Interior should seek expanded funding and staffing for the U.S. Geological Survey’s Mineral Resources Program. The Geological Survey and the major U.S. public land agencies (BLM and Forest Service), the Departments of the Interior and Agriculture, also should establish a new interagency task force to develop a plan to identify specific locations of key strategic and critical materials in the United States.”

In response to this report, the Department of the Interior on February 22, 2022 announced the establishment of an Interagency Working Group on reforming the hardrock mining laws, regulations and permitting policies. Interior also released an “Administration Fundamental Principles for Domestic Mining Reform” paper that outlined recommendations for mining standards, critical minerals supply, recycling, royalties, reclamation, land-use planning, permitting, protection of special places, tribal consultation, best available science, and agency mining expertise.

There are some 450 million acres of federal lands in the United States managed by BLM and the Forest Service. However, millions of acres have been placed off limits to the 1872 Mining Law through land withdrawals to preserve other important values. It is important that sufficient federal lands remain open to mineral entry for exploration and discovery of valuable critical mineral deposits. The supply chain for these mineral resources is critical and federal lands will be valuable targets for future domestic critical and strategic mineral resources and reserves.

### **PUBLIC LANDS FOUNDATION POSITION**

1. Update and reissue the BLM Energy and Mineral Policy, dated August 26, 2008 (Information Bulletin 2008-107), to all BLM Field and Headquarters offices, to recognize that public lands are an important source of the Nation’s mineral resources, including critical and strategic mineral resources.
2. Reinforce through BLM policies that the Secretary of the Interior, pursuant to EO 13817, has defined critical minerals to be (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to

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disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

3. Reinforce that the Department of the Interior's policy and guidance on land withdrawals (Departmental Manual, Chapter 1, 603 DM 1) must be followed before withdrawals (closures to mining claim locations under the 1872 Mining Law) can be processed by BLM.

4. Request that USGS and State Geologists, through the interagency task force recommended by the findings in the Report prepared pursuant to EO 14017, identify Federal lands that are closed or open to operations under the 1872 Mining Law and are believed to be target areas for critical and strategic minerals. The Department and BLM would then make a determination on whether these withdrawals are in the best interest of the United States.

5. Request the minerals industry to identify federal lands that may be of interest to the critical and strategic minerals sector.

6. Support the PLF's recommendations on amendments to the 1872 Mining Law (included in a separate Issue Paper) by keeping intact provisions for the location of mining claims for critical and strategic minerals. Ensure amendments to the Mining Law also include provisions for a Reclamation Fund, from the collection of annual mining claim fees, to fund the restoration of mined-out and un-reclaimed lands.

7. Require that all mining operations under the 1872 Mining Law provide financial guarantees to pay for mitigation measures, including reclamation of post mining land disturbances.

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