



For America's Heritage

Public Lands Foundation

P.O. Box 7226 Arlington, Virginia 22207

December 15, 2023

Secretary Deb Haaland
Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Director Tracy Stone-Manning
Bureau of Land Management
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Haaland and Director Stone-Manning:

The Public Lands Foundation (PLF) would like to express our continued concerns over the apparent waste, fraud and abuse in the Small Miner Maintenance Fee Waiver Program administered by the Bureau of Land Management (BLM). It is critically important to fix the Small Miner Waiver program, where it appears that thousands of fraudulent mining claim assessment work affidavits are submitted to the BLM annually. The Interior's Office of Inspector General (OIG) issued a Final Inspection Report No. 2018-CR-010 on the Small Miner Waiver program in December 2018. The OIG reported that "the requirement of performing labor and improvements on these mining claims is essentially an honor system based on voluntary compliance" and that activities reported in affidavits of labor assessments "are either not allowed or appear to be outside the definition of assessment work". We request that the BLM proceed ahead with the promulgation of regulations to eliminate this discretionary program.

The PLF has been engaged with this issue as early as 2013 and was pleased to see it addressed in the September 2023 Report from the Interagency Mining Law Reform Working Group. The Interagency Working Group Report (pages 106 – 107) includes a recommendation for the Secretary to either direct the BLM to promulgate regulations to eliminate the discretionary Small Miner Waiver program or await Congress to reform the program that would lower administrative costs and eliminate unintended incentives. This fee waiver program has outlived its expectations and we encourage you not to wait for Congressional action, but to proceed ahead with your discretionary authority to eliminate the Small Miner Waiver program originally authorized by the 1993 Omnibus Budget Reconciliation Act. The PLF and the public expect the BLM and the Department to take action now to address abuse in the program.

The issues raised by the OIG (Final Inspection Report No. 2018-CR-010) are still prevalent today. Of the approximate 23,600 small miner claims encumbering about a million acres of BLM and Forest Service administered lands, only a small portion of those claims meet the requirements of meaningful assessment work per 43 CFR part 3835. A review of a sample of BLM mining claim records, by both the OIG and a PLF expert in the program, reveal that many of these claims are being held for non-exploration and non-mining purposes, and BLM's cost to process these mining

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claim maintenance fee waivers is significant. Over \$1 million of annual funding in the mining claim records program is attributable to the Small Miner Waiver program. Based on a study done by one of our members, the costs for processing small miner waivers are approximately \$40.00 per mining claim compared to \$1.73 per claim to process annual maintenance fees on other mining claims. The cost for managing the Small Miner Waiver program for some 23,600 small miner claims is 23 times higher than processing annual maintenance fees for some 385,000 other mining claims on the public lands. Some \$4 million in annual revenues to the Treasury is also lost from the waiver of mining claim maintenance fees. It should also be noted that the contribution of hard rock minerals, including critical minerals, from the mining of small miner mining claims to our national needs or economy is probably insignificant.

The PLF provided comments and recommendations on mining law reform, including comments on the Small Miner Waiver program, to the Interagency Mining Law Reform Working Group on April 23, 2022, in response to the *Federal Register* Notice requesting public comments. In addition, the PLF provided supplemental information on the Small Miner Waiver program to Steve Feldgus (ASLM) with the Interagency Working Group on March 31, 2023. We appreciate that our comments were considered in preparation of the Final Report prepared by the Interagency Working Group. However, it is time to address the significant problems with the Small Miner Waiver program and proceed ahead with the promulgation of regulations to eliminate this discretionary program.

The Public Lands Foundation is a national nonprofit organization that advocates and works for the retention of BLM-administered public lands in public hands, professionally and sustainably managed for responsible use and enjoyment by American citizens. The PLF endorses and embraces the multiple use and sustained yield mission of the BLM. Members are predominately retired employees of the BLM from across the United States and as such have spent their careers dedicated to the sound management of these valuable lands and resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Jo Rugwell". The signature is fluid and cursive, with the first name "Mary" and last name "Rugwell" clearly distinguishable.

Mary Jo Rugwell, President
Public Lands Foundation

cc: Assistant Secretary, Land and Minerals Management
Office of Inspector General