



HOUSE COMMITTEE ON NATURAL RESOURCES

Subcommittee on Oversight and Investigations

"Securing Supply Chains: Access to Critical Minerals in the American Southwest"

Testimony of James R. Carlson
Chairman
The Boundary Line Foundation

Introduction; About BLF -

Thank you Mr. Chairman and Members of the **House Subcommittee on Oversight and Investigations** for the opportunity to summarize for the congressional record the policy issues and some considerations that could lead to stable and ongoing access to domestic sources of strategic and critical minerals.

I am appearing before the subcommittee as the Chairman of the nonprofit corporation Boundary Line Foundation (BLF). BLF is a growing nonprofit whose charitable purpose is to educate and equip county commissioners for active, county-to-agency engagement with executive agencies during Federal administrative actions.

A typical BLF initiative includes statutory research, preparation of policy audits, education of county commissioners, and support for county governments as they actively apply statutes and procedures to the agencies during administrative processes.

Testimony Objective -

The objective of my remarks is to:

- 1) Summarize for the HNR subcommittee how the critical minerals policies of the Biden administration are illegitimately transitioning responsibility for the domestic mineral supply chain away from free markets and toward a nationalized system.
 - 2) Demonstrate how the decision by the Secretary of the Interior to withdraw the Duluth Copper/Nickel sulfide mineral complex is not consistent with the public land laws of the United States and requires congressional action.
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Executive Order 14017 and the 100-Day White House Report -

- In its June, 2021 100-Day Report on building resilient critical mineral supply chains,¹ the **White House Interagency Working Group (IWG)** ignores any mention of the controlling [Mining Act and Minerals Policy of 1970](#) and the [Federal Land Policy Management Act](#), whose statutory construction and intent is for the private sector to lead in the exploration, development, mining, and reclamation of critical minerals.
- The *all-of-government* approach recommended by the IWG to address mineral supply chain issues is derived from Executive Order 14017 and is a pattern throughout the Biden administration that proposes to expand the role of Federal agencies in public land management.²
- If implemented as proposed, the IWG³ recommendations will vastly expand the role of the Departments of Defense, Commerce, and Health and Human Services in critical minerals permitting, mining, reclamation, and data hub monitoring, while preempting and subordinating the statutory role of the Secretary of the Interior.

Summary of Land and Mineral Withdrawals in Minnesota -

- On December 14, 2016 and again on September 20, 2021, the United States Forest Service (USFS) submitted an application to the Department of the Interior, requesting withdrawal of the same 235,000 acre parcel from the working public lands of the Superior National Forest (SNF).
- After two years of [county-to-agency policy engagement](#) with USFS, the Department of Interior, and the White House, USFS cancelled its withdrawal application, stating that the agency had enough information, that existing laws were sufficient to protect the environment, and that standard mineral leasing activities in the SNF could be effective without a 20-year land withdrawal:

“...the USDA Forest Service has enough information to determine a withdrawal is not needed,”

and,

¹ [Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth. 100 Day Reviews under Executive Order 14017.](#) Brian Deese and Jake Sullivan June 2021.

² [Executive Order 14017. Americas Supply Chains” February 24, 2021. Sections 3 and 4.](#)

³ Ibid. 100-year Report Page 17.

“laws that govern mineral development within the Rainy River Watershed provide considerable discretion as to whether to allow new mineral leases,”

and,

“Future lease offerings can adequately be evaluated and regulated on a case-by-case basis without invocation of a 20-year withdrawal.”⁴

- It is important to note that during the 1978 designation of the Boundary Waters Canoe Area Wilderness (BWCAW) that the Congress recognized and segregated the copper nickel sulfide deposits in the working lands of the SNF by establishing the geopolitical **Mining Protection Area** (MPA) boundary. [BLF has gone on record](#) as documenting that only Congress can effect, remove or change the statutory-enacted MPA boundary.

Current Land and Mineral Withdrawal; Public Land Order 7917 -

On October 21, 2021, the Secretary of the Interior published notice of a second application by USFS to withdraw a 225,504 acre parcel from the SNF,⁵ and on January 31, 2023 the Secretary [issued Public Land Order 7917 effecting that withdrawal](#).

- On January 14, 2021 the Boundary Line Foundation placed in the public record its statutory [“*Survey and Application of Delegated Congressional Authority for Land and Mineral Withdrawal By the Secretary of the Interior*”⁶](#) that documents 15 years and 3 administrative actions in the SNF.
- The BLF Survey demonstrates in the public record that:
 1. Secretarial Public Land Order 7917 exceeds the 5,000-acre FLPMA threshold for mineral withdrawals requiring congressional action;
 2. Secretarial Public Land Order 7917 illegitimately extinguishes the FLPMA Principal Use of **Minerals Exploration and Extraction** to exclusively protect ecosystems and the environment;

⁴ [Correspondence: Kathleen Atkinson, U.S. Forest Service Regional Forester, Eastern Region to Mitchell Leverette, BLM State Director, Eastern States Office. September 6, 2018.](#)

⁵ FR Vol. 86, No. 2011, Thursday October 21, 2021. Application for Withdrawal and segregation of Federal Lands; Cook, Lake, and Saint Louis Counties, MN.

⁶ [Survey and Application of Delegated Congressional Authority for Land and Mineral Withdrawal by the Secretary of the Interior. Boundary Line Foundation. January 14, 2021.](#)

3. Secretarial Public Land Order 7917 administratively redraws the Boundary Water Canoe Area Wilderness Mining Protection Area Boundary, a prerogative exclusively belonging to the congress.
4. In enacting FLPMA, the Congress reserved for itself the exclusive prerogative to decide federal land and mineral withdrawals:
 - a) of greater than 5,000 acres;
 - b) for which one or more Principal Uses could effectively be eliminated; or,
 - c) for those land and mineral withdrawals that would affect a preexisting Act of Congress.
5. The Secretary of the Interior has failed to furnish both chambers of Congress, with a detailed, site-specific inventory and analysis of the effect the withdrawal will have on 190,321 acres of Minnesota School Trust Lands, Minnesota Swamp Trust interests, Tax Forfeited lands, and private inholdings as identified by the Land Commissioners of Cook, Lake, and Saint Louis counties. (Table 1, Attachment A).
6. The organic statutory mission of USFS is to manage the national forests of the United States for a *continuous supply of merchantable timber* and to ensure the forests are managed to ensure *favorable conditions of water flow*, not water quality.
7. In carrying out its mission under the Multiple Use and Sustained Yield Act of 1960, USFS is not to “*affect the use of administration of mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.*”

The organic and statutory mission of the USFS does not include expanded protections of ecosystems that extinguish a FLPMA principal use and the application should have been rejected by the Secretary of the Interior.

Thank you for the opportunity to provide remarks on this important subject. I will stand to questions.

Table 1
FLPMA Required Administrative and Economic Studies
for Land Withdrawals of greater than 5,000 Acres¹

<u>FLPMA Pre-submission Procedural and Technical Requirements²</u>	<u>Comment</u>
(1) A clear explanation of the proposed use of the land involved which led to the withdrawal proposal;	<p>Following segregation and within three months of notification in the <i>Federal Register</i> and Congressional consideration, land and mineral withdrawal applications submitted by the Secretary are required to analyze and report the economic impact on residents, property owners, and the tax base. The Land Commissioners from Lake, Cook and St. Louis Counties have provided detailed land and mineral information that is required to be analyzed and incorporated with the USFS withdrawal application for congressional consideration.</p> <p>The Saint Louis County Land Commissioner reports 46,288 acres of private inholdings; 5,596 acres of <i>active</i> state mineral leases; 12,400 acres of State Mineral Trust holdings; 12,600 acres of State Swamp Trust mineral holdings; 16,963 acres of State Tax Forfeited land; and 38,765 acres of state mineral forfeited interests; 86 miles of county and township roads; 10 publicly owned gravel pits and 9 active recreation Cabin Leases. See Attachment X</p> <p>The Lake County Land Commissioner reports 63,182 acres of private inholdings; 12,220 acres of <i>active</i> state mineral leases; 17,671 acres of State School Trust Mineral Trust holdings; 45,079 acres of State Swamp Trust mineral holdings; 16,169 acres of State Tax Forfeited mineral interest; 16 miles of high voltage utility corridors; 5 gravel pits and 12 recreation cabin leases; and 5 gravel pits. See Attachment X</p>
(2) An inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the nation;	
(3) An identification of present users of the land involved, and how they will be affected by the proposed use;	
(4) An analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;	
(5) An analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;	
(6) A statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;	
(7) A statement of the consultation which has been or will be had with other federal departments and agencies, with regional, state, and local government bodies, and with other appropriate individuals and groups;	
(8) A statement indicating the effect of the proposed uses, if any, on state and local government interests and the regional economy;	
(9) A statement of the expected length of time needed for the withdrawal;	
(10) The time and place of hearings and of other public involvement concerning such withdrawal;	
(11) The place where the records on the withdrawal can be examined by interested parties; and,	
(12) A report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.	

¹ Information required to be submitted to Congress within three months of *Federal Register* notification. 43 U.S.C. § 1714 (c)(1) and 43 U.S.C. § 1714 (c)(2) 1-12.

² The studies, reports and analyses required to be submitted to Congress by the Secretary under 43 U.S.C. § 1714 (c) are in addition to the NEPA and CEQ requirements.



Saint Louis County

Land and Minerals Dept. • www.stlouiscountymn.gov • landdept@stlouiscountymn.gov

Mark Weber
Land Commissioner

August 9, 2017

Mr. Jim Carlson
Stillwater Technical Solutions
PO Box 93
Garden City, KS 67846

Dear Mr. Carlson

This letter is in response to your request to review St. Louis County land records as they relate to the proposed withdrawal of approximately 248,328 acres of federally owned minerals within the Superior National Forest. The following data was compiled from existing county, state and federal GIS databases.

Federal Holdings:

- The total surface area enclosed within the boundary of the proposed federal mineral withdrawal is approximately 589,070 acres. The total enclosed surface area within St. Louis County is approximately 148,759 acres.
- The U.S. Forest Service has surface holdings of approximately 63,039 acres within the boundary in St. Louis County.
- There are approximately 34,295 acres of federally owned minerals within the boundary in St. Louis County.

Tribal Government Holdings within the Federal Mineral Withdrawal Boundary in St. Louis County:

- The Bois Forte Band of Chippewa has surface holdings of approximately 172 acres.

State of Minnesota Holdings within the Federal Mineral Withdrawal Boundary in St. Louis County:

- The State of Minnesota has surface holdings of approximately 21,667 acres.
- The State of Minnesota has School Trust mineral holdings of approximately 12,400 acres, and Swamp Trust mineral holdings of approximately 12,600 acres.

St. Louis County Holdings within the Federal Mineral Withdrawal Boundary:

- St. Louis County manages approximately 16,963 acres of State Tax Forfeited land.
- The State of Minnesota has identified approximately 38,765 acres of mineral ownership that may have a tax forfeited mineral interest.¹

¹ More research is needed to verify State tax forfeited mineral ownership for many of these parcels.

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Duluth, MN 55802
(218) 726-2606
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Pike Lake Area Office
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(218) 625-3700
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Virginia Area Office
7820 Highway 135
Virginia, MN 55792
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Private Holdings within the Federal Mineral Withdrawal Boundary in St. Louis County:

- There are approximately 46,288 acres of private surface ownership.
- Forest Service document *Appendix A* (Land List for Proposed Superior National Forest Mineral Withdrawal Fee Simple Lands) does not list any parcels having private surface with federal mineral ownership in St. Louis County. Appendix A is missing a Township and Range heading on page 26 making it difficult to compare surface and mineral ownership. Also, ambiguous legal descriptions in Appendix A made it difficult to locate the listed parcels and demonstrate their impact. As a result, 68 privately and publically owned surface parcels totaling 246 acres were identified in which the underlying federal mineral ownership is uncertain.
- St. Louis County land records indicate there are two parcels totaling 40 acres having privately owned surface overlying federally owned minerals.

State Mineral Leases within the Federal Mineral Withdrawal Boundary in St. Louis County:

- The State of Minnesota has identified approximately 5,596 acres of active State mineral leases and approximately 1,908 acres of active State Tax Forfeited mineral leases.²

Utility Corridors within the Federal Mineral Withdrawal Boundary in St. Louis County:

- There are approximately 24 miles of fiber optic lines.
- There are approximately 164 miles of primary overhead; 36 miles of secondary overhead; and 51 miles of underground electrical power lines.
- There are approximately 12 miles of high voltage transmission lines.

Easements within the Federal Mineral Withdrawal Boundary in St. Louis County:

- The Land and Minerals Department has issued approximately 10 miles of easements across State Tax Forfeited land.
- St. Louis County found no data for county road right-of-way easements.

Roads within the Federal Mineral Withdrawal Boundary in St. Louis County:

- There are approximately 61 miles of US and State highways.
- There are approximately 86 miles of County and Township roads.

Water Rights within the Federal Mineral Withdrawal Boundary in St. Louis County:

- St. Louis County found no data on riparian water rights.

Revenue Producing Operations within the Federal Mineral Withdrawal Boundary in St. Louis County:

- St. Louis County has identified 10 publically owned gravel pits.
- St. Louis County is planning to harvest approximately 2,115 acres of State Tax Forfeited land over the next 10 years.
- St. Louis County has 9 active Recreation Cabin Leases.

Please note that this report was compiled from existing spatial data located in various county, state and federal offices, and St. Louis County is not responsible for any inaccuracies contained herein. Please let me know if you have any questions or if further actions are needed to fulfill St. Louis County's data request.

² 2012 State of MN data.

Sincerely,

A handwritten signature in blue ink that reads "Mark Weber". The signature is fluid and cursive, with the first name "Mark" and last name "Weber" clearly distinguishable.

Mark Weber
St. Louis County Land Commissioner



Nate Eide
Land Commissioner
Forestry/Land Dept.

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August 4, 2017

Mr. Jim Carlson
Stillwater Technical Solutions
PO Box 93
Garden City, KS 67846

Dear Mr. Carlson

This report is in response to your request to review Lake County land records as they relate to the proposed withdrawal of approximately 248,328 acres of federally owned minerals within the Superior National Forest.

Federal Holdings:

- The total surface area enclosed within the boundary of the proposed federal mineral withdrawal is approximately 589,070 acres. The total enclosed surface area within Lake County is approximately 421,146 acres.
- The U.S. Forest Service has surface holdings of approximately 279,883 acres within the boundary in Lake County.
- The Bureau of Land Management has mineral holdings of approximately 188,858 acres within the boundary in Lake County.

Tribal Government Holdings within the Federal Mineral Withdrawal Boundary in Lake County:

- None

State of Minnesota Holdings within the Federal Mineral Withdrawal Boundary in Lake County:

- The State of Minnesota has surface holdings of approximately 55,979 acres.
- The State of Minnesota has School Trust mineral holdings of approximately 17,671 acres, and Swamp Trust mineral holdings of approximately 45,079 acres.

Lake County Holdings within the Federal Mineral Withdrawal Boundary in Lake County:

- Lake County manages approximately 3,075 acres of State Tax Forfeited land.
- The State of Minnesota has identified approximately 16,169 acres of mineral ownership that may have a tax forfeited mineral interest.¹

¹ More research is needed to verify State Tax Forfeited mineral ownership.



Private Holdings within the Federal Mineral Withdrawal Boundary in Lake County:

- There are approximately 63,182 acres of private surface ownership.
- Lake County is not aware of any parcels having private surface with federal mineral ownership.

Mineral Leases within the Federal Mineral Withdrawal Boundary in Lake County:

- The State of Minnesota has identified approximately 12,220 acres of active mineral leases. 237 acres of these are industrial mineral and 11,983 acres are non-ferrous.

Utility Corridors within the Federal Mineral Withdrawal Boundary in Lake County:

- There are approximately 16 miles of High Voltage lines

Easements within the Federal Mineral Withdrawal Boundary in Lake County:

- Readily available data is not available for county road right-of-way easements.

Roads within the Federal Mineral Withdrawal Boundary in Lake County:

Road Type	Miles
Unknown	3
State	36
CSAH	54
County	12
Township	14
UT	2
Nat. Forest	398
State Forest/Park	37
State Forest/Park	1
Private	33
County Forest	1
Sum	591

Revenue Producing Operations within the Federal Mineral Withdrawal Boundary in Lake County:

- Lake County has identified approximately 5 gravel pits (2 county, 1 private, 1 state, 1 federal)
- There are 12 Recreation Cabin Leases with structures.

Tax Revenue within the Federal Mineral Withdrawal Boundary in Lake County:

- The annual tax revenue from the parcels within the Withdrawal Boundary in Lake County in 2017 is \$2,621,051

Please note that this report was compiled from existing spatial data located in various county, state and federal offices, and Lake County is not responsible for any incorrectness herein. Please let me know if you have any questions or if further actions are needed to fulfill Lake County's data request.

Sincerely,

Nate Eide
Lake County Land Commissioner



COOK COUNTY LAND SERVICES
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July 31, 2017

Jim Carlson
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Re: County Land-Data Request

Dear Mr. Carlson

As Cook County Land Commissioner I have worked through your information request with the following results. The area of the USFS Withdrawal Application in Cook County is all owned by the Federal Government under the name of United States of America or USFS Superior National Forest with a total acreage of 11, 457.27. Within the USFS Withdrawal area there is 5 miles of Perent Lake Rd, which is a County Rd with an Public Road Easement dated 4-1-1993 with verbiage that the covenant shall attach to and run with the land. There is an old Federal Gravel Pit, labeled on the map, no longer in operation. There are two Severed Mineral Interests within the USFS Withdrawal area with each being 80 Acres. One Severed Mineral Interest is in private ownership, RGGGS Lands & Minerals LTD LP, and the other is Cook County Tax Forfeit, also labeled on the map.

Cook County contains roughly 92% publicly owned lands encompassing Federal, State, County and City ownerships. The area directly surrounding the USFS Withdrawal Area is Federally owned, with nearby State land holdings as well. These ownerships are designated on the map using numeric coding. The map identifies the boundary of the USFS Withdrawal Area, between Lake and Cook Counties as well as the boundary of the BWCAW(Boundary Waters Canoe Area Wilderness) that starts just north of the USFS Withdrawal Area.

Any information not provided does not exist or pertain to Cook County for this data request. I hope the information provided here is sufficient to fulfill your data request. Please let me know if there are questions or further actions needed to fulfill Cook County's data request.

Regards,

A handwritten signature in black ink, appearing to read "Lisa Kerr", written in a cursive style.

Lisa Kerr

Cook County Land Commissioner/Parks & Trails Director