**Comments Opposing BLM 2019-0001-0001**
**Non-Energy Solid Leasable Minerals Royalty Rate Reduction Process**

Thank you for the opportunity to comment on the Bureau of Land Management's (BLM) proposed rule to change the process for seeking royalty rate reductions for non-energy solid leasable minerals (BLM-2019-0001-0001). Please accept these comments on behalf of Earthworks, the Project On Government Oversight (POGO), Global Witness, and the Publish What You Pay-United States coalition (PWYP-US).

Earthworks is a national organization dedicated to protecting communities and the environment from the impacts of mineral and energy development while seeking sustainable, just, and equitable solutions.

The Project On Government Oversight is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. POGO champions reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

Global Witness is an independent non-profit organization dedicated to ending the environmental and human rights abuses that are driven by the exploitation of natural resources and corruption in the global political and economic system. We carry out hard-hitting investigations to expose these abuses, and advocate for change.

Publish What You Pay United States is the US chapter of a global coalition that works to ensure that the wealth generated by oil, gas, and mining industries can be a pathway to poverty reduction, stable economic growth, and development in all resource-rich countries. PWYP-US is comprised of 40 members, including development, faith-based, human rights, environmental, financial reform, and anti-corruption organizations representing over 5 million constituents across the United States.

All of our organizations were members of the multi-stakeholder group for the US Extractive Industries Transparency Initiative (USEITI), and we continue to support increased transparency and accountability over US natural resource revenues.

## Americans Deserve a Fair Return for Our Minerals

As BLM is aware, under the General Mining Law of 1872, taxpayers receive zero royalties for locatable minerals on public lands throughout the West and Intermountain West.[1] The U.S. lags behind the rest of the world by failing to collect a federal royalty for these minerals.[2] This approach has funneled more than $300 billion in public wealth into private hands, often foreign-owned companies, since 1872.[3] In addition to free minerals, mining companies receive generous tax breaks for depleting our natural resources.

For the relatively narrow universe of leasable minerals on acquired lands, BLM should guarantee the industry pays a fair price for the resources it harvests. By failing to do so, BLM forgoes potential revenue that could be used to further environmental protection, land management efficiency, and stronger oversight of commercial activities on public lands. BLM should promote greater transparency and accountability from companies extracting natural resources from our nation's public lands.

According to BLM's own estimates, this proposed rule could save the industry as much as $5 million in regulatory costs over the next decade.[4] Rather than focusing on saving private companies half a million dollars per year, the agency should prioritize making sure the public receives a fair return on the resources extracted from our lands.

Furthermore, that savings could be achieved by the companies themselves making sure their operations plans are complete and accurate when submitted for approval. In 2016, the Government Accountability Office (GAO) found that on average the mine review and approval process takes only two years.[5] GAO found the most common reason for delay is the companies submitting "incomplete or vague" plans of operation which require additional information before the Interior Department could proceed.[6] The extraction industry should not look to save money by eliminating important regulations while they are cutting corners on their operations plans.

## The Interior Department's Critical Minerals Designations are Capricious

We are particularly concerned about the proposed rules inclusion of the Interior Department's "Final List of Critical Minerals 2018," published in the Federal Register on May 18, 2018.

A September 2019 investigation by POGO found that mining industry representatives attempted to use their connections at the Department of the Interior to influence the contents of the department's critical minerals report and advocated for the rollback of longstanding rules limiting mining on public lands such as national parks.[7]

In its report, POGO found that several minerals on the Department of Interior's new list—uranium, helium, and potash—had never appeared on similar lists previously developed by the Interior or Energy Departments. Six of the new minerals are not on the Defense Department's expansive and nearly duplicative list of "strategic materials."[8]

The justifications for the critical minerals list are dubious. For instance, uranium is a fuel mineral and therefore cannot be critical under its definition from Executive Order 13817.[9] The United States has a surplus of helium and a secure domestic supply of potash. The United States Geological Survey (USGS) characterizes a dozen of the designated minerals as byproducts-waste from other minerals mining.[10] If those dozen minerals were indeed critical, the mining industry would not treat them as waste.

## Conclusion

The Interior Department has given away for free a vast concentration of public mineral wealth under the General Mining Law of 1872. Therefore, speeding the process by which mining companies may receive royalty reductions for a subset of minerals does not serve the public interest.

[1] See 30 U.S.C. 22 et seq.
[2] According to the World Bank, most mineral-producing nations impose a royalty. World Bank, Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society. 2006. P. 40 https://siteresources.worldbank.org/INTOGMC/Resources/336099-1156955107170/miningroyaltiespublication.pdf
[3] See https://earthworks.org/issues/general_mining_law_of_1872/
[4] "Interior Proposes Streamlines Regulations for Mineral Development, Helping the U.S. Compete Globally and Supporting American Jobs," Bureau of Land Management, October 18, 2019. https://www.federalregister.gov/documents/2019/10/18/2019-22535/non-energy-solid-leasable-minerals-royalty-rate-reduction-process
[5] Government Accountability Office, *Hardrock Mining: BLM and Forest Service Have taken Some Actions to Expedite the Mine Plan Review Process but Could Do More*, GAO-16-165 (January 2016), 13 https://www.gao.gov/assets/680/674752.pdf
[6] Government Accountability Office, *Hardrock Mining: BLM and Forest Service Have taken Some Actions to Expedite the Mine Plan Review Process but Could Do More*, 22
[7] Lydia Dennett, "Mining for Access at the Interior Department," Project On Government Oversight, September 4, 2019.
[8] Ibid.
[9] See Section 2 Definition. (a) A "critical mineral" is a mineral identified by the Secretary of the Interior pursuant to subsection (b) of this section 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 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. https://www.whitehouse.gov/presidential-actions/presidential-executive-order-federal-strategy-ensure-secure-reliable-supplies-critical-minerals/
[10] See page 10. Fortier, S.M., Nassar, N.T., Lederer, G.W., Brainard, Jamie, Gambogi, Joseph, and McCullough, E.A., 2018, Draft critical mineral list—Summary of methodology and background information—U.S. Geological Survey technical input document in response to Secretarial Order No. 3359: U.S. Geological Survey Open-File Report 2018–1021, 15 p., https://doi.org/10.3133/ofr20181021.