

Appendix Z

Process Overview for Analyzing Potential
Mineral Withdrawals on National Conservation
Lands and Development Focus Areas –
Post DRECP LUPA Record of Decision

Appendix Z – Process Overview for Analyzing Potential Mineral Withdrawals on National Conservation Lands and Development Focus Areas – Post DRECP LUPA Record of Decision

Z. Process Overview for Analyzing Potential Mineral Withdrawals on National Conservation Lands and Development Focus Areas – Post DRECP LUPA Record of Decision

Z.1 Introduction

This Appendix provides additional information about potential future mineral withdrawals in Development Focus Areas (DFAs) and National Conservation Lands identified by the BLM in connection with its DRECP Land Use Plan Amendment (LUPA) decision. Under section 204 of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1714), the Secretary of the Interior can make, modify, revoke and extend withdrawals, subject to valid existing rights, to remove lands from the operation of the public land laws, including the Mining Law of 1872. Analyses would occur following the DRECP LUPA Record of Decision, in accordance with Section 204, the mineral withdrawal process, in the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701 et seq.).

The elements of the proposed mineral withdrawal include:

Notice of Proposed Withdrawal: A notice of proposed withdrawal would be published in the Federal Register, opening a 90-day public comment period. Upon publication of that notice, and subject to valid existing rights and to the extent specified in the notice, the lands identified would be segregated from location and new entry for up to two years while the Secretary decides whether to approve the withdrawal.

Public Process: During the up-to-two-year segregation period, studies and environmental analyses would be conducted in compliance with 43 C.F.R. § 2310.3-2 and the National Environmental Policy Act (NEPA) to determine if the lands should be

withdrawn from location and entry of new mining claims. This process will invite participation by the public, tribes, environmental groups, industry, state and local government, as well as other stakeholders. At the end of the process, a decision on the proposed withdrawal may be made.

Valid, pre-existing claims: If lands are proposed to be withdrawn, neither the initial segregation for up to two years, nor any subsequent withdrawal, would prohibit ongoing or future exploration or extraction operations on valid claims in the DRECP planning area. Neither the segregation nor any subsequent withdrawal would prohibit any other authorized uses on these lands. Under FLPMA, the Secretary can generally withdraw lands for a maximum of 20 years, and can extend the term of a withdrawal in the future.

Z.2 Potential Withdrawal for National Conservation Lands

The purpose of FLPMA Section 601 (43 U.S.C. 1781) identifies that the purpose of the CDCA is to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality. Section 601 recognizes the natural and cultural resources contained in the CDCA and the need to conserve these resources for future generations. The 2009 Omnibus identifies that public land administered for conservation purposes, within the CDCA, be managed to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.

To achieve the purposes of FLPMA Section 601 and the 2009 Omnibus, and consistent with FLPMA's multiple use and sustained yield mandate, the BLM will consider for mineral withdrawal any National Conservation Lands it identifies in connection with the DRECP decision.

In the DRECP LUPA Record of Decision, the BLM will identify priority areas within the National Conservation Lands for consideration in a Phase 1 analysis of mineral withdrawals. In identifying these priority areas, or "Phase 1" areas, the BLM will consider the following:

- History of conservation commitment
- Importance of the conservation values
- Current trends (e.g. species population trend)
- Current absence of significant mining activity or production

The evaluation of these Phase 1 areas for a potential withdrawal would be the subject of a separate NEPA process that would begin as soon as practicable after approval of the DRECP LUPA Record of Decision. As described above, the environmental analysis process would include the opportunity for public participation, including public meetings and a public comment period.

Upon conclusion of the Phase 1 environmental analysis, review, and decision, the BLM would expect to commence a Phase 2 analysis of withdrawals for any remaining National Conservation Lands within the DRECP planning area not previously considered or otherwise subject to withdrawal.

Z.3 Potential Withdrawal of Development Focus Areas

Consistent with the principles of multiple use and sustained yield, the BLM will also consider the withdrawal of any lands designated as DFAs on a case-by-case basis, where appropriate. Because any DFAs will have been designated as areas within the DRECP planning area that are most suitable for renewable energy (solar, wind and geothermal) development, they may warrant protection from future mining claims that could impede development of renewable energy projects in these areas.

Any future withdrawal process relating to DFAs will be subject to an environmental analysis process, consistent with NEPA and other applicable laws that would include the opportunity for public participation, including public meetings and a public comment period.

