

Congress of the United States
Washington, DC 20515

January 26, 2021

The Honorable Joseph R. Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We write to express our strong opposition to the January 20th policy from the U.S. Department of the Interior's Secretarial Order 3395, which is effectively a 60-day moratorium on new mining, oil and gas leasing and permitting on federal lands.

On the campaign trail, and in your inauguration speech, you spoke of unifying a fractured country that is reeling from the health and economic effects of COVID-19. In states like New Mexico and Pennsylvania, you have spoken directly to our fellow citizens and promised the economic opportunities tied to energy development would not be eliminated in your Administration. Unfortunately, your actions have completely contradicted your words. Worse, in the middle of an economic crisis, your Administration is prioritizing virtue signaling and pink slips over paychecks.

This decision appears to be a first step toward a policy of banning mining and oil and gas development on federal lands and waters. Studies suggest that such a policy would have a damaging effect up and down the energy supply chain, potentially including:

- Near term loss of approximately one million Americans jobs;
- A decrease of U.S. Gross Domestic Product by \$700 billion;
- Loss of one of the most significant sources of federal revenue during a time of record federal deficits;
- Loss of a major source of revenue for conservation programs and states budgets;
- Net increase of crude imports by 2 million barrels per day, weakening U.S. energy and national security and increasing our trade deficit and energy dependence on foreign countries; and
- Reduction in critical energy supplies for Americans to heat their homes and fuel their cars, as well as impacts to manufacturing feedstocks in the development of critical products.

This knee-jerk policy offers troubling clues for how your Administration would remedy forthcoming consequences, occurring during a health and economic emergency, should this action be fully implemented. Unfortunately, it appears your Administration is about to double-down on this misguided policy. Media outlets last Friday reported that this concerning action of removing existing decision-making authority from heads of agencies could be followed by an indefinite ban on new energy and mineral leasing on federal lands.

Such an action by your Administration would be as extreme as it is radical, and it would only further divide the country. It would put Americans with good-paying jobs in the energy industry out of work. And, it would seem to conflict directly with federal law.

For onshore leases, the Federal Land and Policy and Management Act requires that the Bureau of Land Management (BLM) manage the public lands on the basis of “multiple use and sustained yield,” requires that BLM manage the public lands “in a manner which recognizes the Nation’s need for domestic sources of minerals,” and defines mineral exploration and production as a “principal or major use” of the public lands.¹ Further, the Mineral Leasing Act requires that “[l]ease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary.”²

For offshore leases, the Outer Continental Shelf Lands Act declares “the outer Continental Shelf is a vital national resources reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development.”³

The Administrative Procedure Act, which governs agency decision-making, also prohibits actions that are arbitrary, capricious, or otherwise contrary to law⁴, which we believe is likely the case with your Administration’s recent actions, including Secretarial Order 3395, and potential future action to ban all mining, oil and natural gas permitting on federal lands and in federal waters.

While we have yet to see the details of the reported ban, we have difficulty comprehending how any such ban would comply with these statutory requirements and others.

Americans deserve to understand why and how this order came about. Americans are tired of politicians saying one thing and doing the opposite, and Order 3395 appears to be exactly that. On behalf of our constituents and millions of Americans across the country, we will pursue our oversight prerogative to protect against this egregious executive overreach.

It is our hope we can work with your Administration to promote an all-of-the-above energy policy that ensures affordable, domestically produced energy for all Americans.

The COVID-19 pandemic has caused severe economic damage and anxiety, and now is not the time for ill-conceived policies that jeopardize even more American jobs. Many state budgets, which have been negatively impacted by the pandemic due to reduced economic activity and reduced tax collections, rely on critical tax and royalty revenues which are generated from mineral development. In 2019, 34 energy-producing states received a total of \$1.81 billion from mineral development on federal lands and waters. States use this revenue to fund public schools, colleges, and universities, as well as local infrastructure projects including environmental and coastal restoration. Cutting off this crucial source of revenue would be catastrophic for many local and state coffers, leaving them with few options.

In addition, energy and mineral development is routinely the largest source of revenue to the Treasury after taxes. Numerous federal programs are funded with mineral revenues and will be severely impacted by a ban on mineral development. For example, halting mineral production on federal lands and waters will bankrupt critically important conservation funds like the Land and Water Conservation Fund (LWCF). LWCF, which Congress recently provided permanent, mandatory funding for derived from offshore oil and gas development, is used to acquire lands for preservation and gives money to states and local governments to enhance outdoor recreation opportunities across the country. In addition to LWCF, oil and gas development provides \$150 million annually to the Historic Preservation Fund and

¹ 43 U.S.C. §§ 1701(a)(7), (12); 1702(l).

² 30 U.S.C. § 226(b)(1)(A)

³ 43 U.S.C. § 1332(3)

⁴ 5 U.S.C. §§ 706(2)

contributes up to \$1.9 billion annually to help address critical infrastructure needs and deferred maintenance at national parks and on public lands. Even a brief pause in mineral development will have a significant impact to the revenue needed to fund these important conservation programs.

We are concerned that these actions put American workers and their families at risk and would likely deepen and extend Americans' economic hardship. We ask that you immediately revoke Secretarial Order 3395 and shelve any plans to ban mineral leasing and permitting on federal lands. Such actions would signal a willingness to unify the country and a commitment to affordable energy for all Americans, which during a global pandemic is more important than ever.

Respectfully,



Kevin McCarthy
Republican Leader



Steve Scalise
Republican Whip



Liz Cheney
House Republican Conference Chair



Bruce Westerman
Member of Congress



Kevin Brady
Member of Congress



Mike Bost
Member of Congress



James Comer
Member of Congress



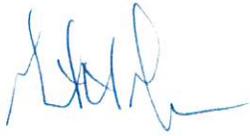
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Member of Congress



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Member of Congress



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Frank Lucas
Member of Congress



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