BY THE COMPTROLLER GENERAL

**Report To The Chairman,
Subcommittee On Mines And Mining
Committee On Interior And Insular Affairs
House Of Representatives**

OF THE UNITED STATES

Interior's Program To Review Withdrawn Federal Lands--Limited Progress And Results

In 1976, the Congress required the Secretary of the Interior to review, by 1991, certain types of Federal lands withdrawn (set aside) by various Federal agencies in 11 Western States. Special emphasis was placed on the review of Federal land withdrawals from mineral exploration and development. However, the Bureau of Land Management is giving priority review to lands not withdrawn from mineral exploration and development and not specified for review by the Congress.

GAO believes that Congress' objectives could have been more fully met if congressional priorities were followed and program resources allocated proportionately to those States with the most withdrawn acreage needing review and the best potential for mineral development. GAO also believes that the program's successful completion may be jeopardized by funding and support problems.

In addition, GAO found that Interior has not defined the extent to which Federal lands are informally ("de facto") withdrawn nor established criteria for land managers to use when making decisions which limit access to lands for mineral exploration and development.

GAO makes recommendations addressing these problems.

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OCTOBER 7 1982

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-208997

The Honorable James D. Santini
Chairman, Subcommittee on Mines
and Mining
Committee on Interior and
Insular Affairs
House of Representatives

Dear Mr. Chairman:

This report responds to your October 20, 1981, request and subsequent discussions with your staff regarding the Department of the Interior's implementation of the review of existing Federal land withdrawals required by section 204(ℓ) of the Federal land Policy and Management Act of 1976. The report also discusses the Department's actions to review "de facto" withdrawals--Federal lands withdrawn by informal or administrative means.

As arranged with your office, unless you announce its contents earlier, we plan to distribute this report to cognizant agencies and other interested parties, and make the report available upon request 10 days from the date of the report.

Sincerely yours,

John D. Heller

Acting Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT
TO THE CHAIRMAN, SUBCOMMITTEE
ON MINES AND MINING, COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

INTERIOR'S PROGRAM TO REVIEW WITHDRAWN FEDERAL LANDS--LIMITED PROGRESS AND RESULTS

D I G E S T

Withdrawals of Federal land from mineral exploration and development have become controversial in recent years. Mining interests claim that vast amounts of Federal acreage are withdrawn from mineral entry, contributing to increased dependence on foreign mineral resources, particularly oil and gas. Environmental groups believe that withdrawals are necessary to protect the environmental values of Federal lands.

The Congress established guidelines for the management of public lands including procedures for creating new withdrawals in the Federal Land Policy and Management Act of 1976. Section 204(ℓ) requires a review by 1991 of certain types of Federal lands withdrawn by various Federal agencies in 11 Western States. The act placed special emphasis on the review of withdrawals from mineral exploration and development. (See p. 7.)

This review is currently being conducted by the Department of the Interior's Bureau of Land Management (BLM). The program is designed to open "locked-up" Federal lands to mineral exploration and development and other uses and to establish a systematic review of remaining withdrawn Federal lands.

On October 20, 1981, the Chairman, Subcommittee on Mines and Mining, House Committee on Interior and Insular Affairs asked GAO to examine (1) how Interior was implementing the program to review existing Federal withdrawals and (2) what actions Interior was taking to review "de facto" withdrawals--lands not formally withdrawn but restricted from mineral exploration and development.

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GAO found that BLM's implementation of the program to date could have been more consistent with the objectives of the Congress and, therefore, more responsive to congressional expectations. BLM is giving priority to reviewing lands not specified for review by the Congress in section 204(ℓ) and not closed to mineral entry. In addition, GAO found that although Interior seems intent on opening more Federal lands to multiple use, it is still allowing management decisions to informally or "de facto" withdraw lands from mineral exploration and development.

PROGRAM STATUS

According to the inventory developed by Interior in 1980, about 165 million acres of the roughly 738 million acres of land in Federal ownership had some type of use restriction either through formal withdrawal or administrative action. Of the 165 million acres, only about 63 million acres were of the type specified for review by the Congress. Approximately half of these 63 million acres are held by BLM and the remaining half by other Federal agencies. (See p. 6.)

In 1981, BLM changed program priorities and began reviewing all BLM lands first (133 million acres) including lands not specified for review. This management decision delayed an important program segment--the review of lands withdrawn by other Federal agencies. Review of other agency withdrawals is important because for the first time, Federal agencies will have to justify large land withdrawals and place time limits on them. This review segment is essential to establishing a systematic method of reviewing Federal land withdrawals as the Congress desired. (See p. 6.)

As of May 1982, BLM had revoked or modified use restrictions on 22.6 million acres of public land. However, little new acreage was opened to mineral entry as a result of this action because most of this land

was already relatively open to mineral leasing under the mineral leasing laws. Additionally, only about 1 million of these acres were specifically opened to mining under the Mining Law of 1872. (See p. 13.)

PROGRAM IMPLEMENTATION COULD HAVE BEEN MORE EFFECTIVE

As a result of current program implementation, priorities, and budget allocations, most withdrawals from mineral entry and specified for review by the Congress have still not been reviewed. In fact, the program has had little impact on opening additional lands to mineral exploration and development thus far. (See p. 13.)

By the end of fiscal year 1983, BLM estimates that $12.9 million will have been spent on the program and total costs are projected to be $38.9 million by 1991. (See p. 20.) Budget resources have not been allocated to States on the basis of withdrawn acreage or potential for mineral development. (See p. 11.) Furthermore, completion of the review by 1991 of other Federal agency withdrawals is jeopardized by funding and support problems. (See p. 20.) Finally, GAO identified other problems with program implementation, which need attention, such as confusion among program officials about the requirement for mineral reports. (See p. 18.)

FORMAL AND INFORMAL WITHDRAWALS OF FEDERAL LAND STILL OCCUR

Interior is subjecting applications for new formal withdrawals of Federal land to a rigorous justification process. However, despite previous GAO recommendations, GAO found no evidence that Interior is attempting to define the extent to which Federal lands are informally ("de facto") withdrawn or to establish criteria for land managers to use when making decisions which limit access to lands for mineral exploration and development. In the four States GAO visited, it was determined that approximately 11 million acres had been closed to mineral

exploration and development without formal withdrawals, and 18.5 million acres were highly restricted. (See p. 30.)

RECOMMENDATIONS TO THE CONGRESS

The significance of the remaining program objectives and the time left to meet them places a premium on careful budget management. Therefore, GAO is making technical budgetary recommendations to the Congress to improve congressional control and oversight of program expenditures. (See p. 42.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

GAO's recommendations are summarized below. The full text of the recommendations begin on page 42.

To ensure the successful completion of the program and maintain the proper financial management controls over program operations, GAO is also making several budgetary recommendations to the Secretary of the Interior. (See p. 42.) In addition, GAO recommends that the Secretary direct BLM to

- --allocate program resources proportionately, for the remainder of the withdrawal review program, to States with the most acreage withdrawn and the best potential for mineral development and

- --work with participating Federal agency officials to determine which lands are closed to mineral exploration and development and allocate program resources to ensure a review of these lands first.

To avoid the uncertainty which now exists regarding requirements for mineral reports and to ensure efficient preparation and use of such reports in line with previous GAO recommendations regarding minerals management organization, GAO recommends that the Secretary

- --establish minimum standards for mineral reports required by the review program and those to be provided with new withdrawal applications and

--consolidate the responsibilities for performing and evaluating the mineral reports required by the review program under one Assistant Secretary.

Because informal or "de facto" withdrawals of Federal land continue to be a problem, GAO makes further recommendations to the Secretary of the Interior to establish procedures which would permit congressional oversight over such land use decisions. GAO also makes a recommendation to the Federal Energy Regulatory Commission to ensure that Federal lands are not indefinitely withdrawn by the filing of an application for a hydroelectric power project. (See pp. 43 and 44.)

AGENCY COMMENTS

Comments on a draft of this report were received from the Department of the Interior (app. II) and the Federal Energy Regulatory Commission (app. III). A detailed discussion of their comments starts on page 44.

Interior officials generally disagreed with GAO's recommendations designed to improve control of program expenditures and management. Interior believes that its shift of program priorities and its method of allocating program resources were proper management decisions. GAO believes that these decisions could affect the successful completion of the program by 1991 if present program funding problems remain unresolved.

The Executive Director of the Federal Energy Regulatory Commission expressed some difficulty with implementing GAO's recommendation to ensure that additional Federal lands will not be indefinitely withdrawn by hydroelectric power project applications but stated that the Commission staff is examining GAO's recommendation further.

Contents

ABBREVIATIONS

BLM	Bureau of Land Management
BR	Bureau of Reclamation
DOD	Department of Defense
DOE	Department of Energy
FAA	Federal Aviation Administration
FERC	Federal Energy Regulatory Commission
FLPMA	Federal Land Policy and Management Act of 1976
GAO	General Accounting Office
MBO	management-by-objective
MMS	Minerals Management Service
USGS	U.S. Geological Survey

GLOSSARY

Relinquishment	Formal notification by a Federal agency that public lands withdrawn for its use are no longer needed.
Revocation	Formal cancellation of a withdrawal by statute or Secretarial Order.
Public land order	The formal order issued by the office of the Secretary of the Interior creating, continuing, modifying, or revoking a withdrawal, and signed by an appointed, Senate-confirmed official of the office of the Secretary.
Holding agency	The Federal department or agency for which lands have been withdrawn.
De facto withdrawal	Informal withdrawal of public lands, usually through administrative means, which segregates the lands from operation of some or all of the public land laws, including the mining and leasing laws.
Land classifications	The designation of lands as being valuable or suitable for specific purposes, uses, or resources which restrict the land from other uses, including mineral exploration and development.
Termination	Formal ending of a BLM land classification.
Withdrawals	Withholdings of Federal lands from settlement, sale, entry, mineral location or disposal under some or all of the general land laws. Withdrawals limit the use of the land to the specific purpose or purposes for which it was withdrawn.
Federal land	All classes of land owned by the Federal Government.
Public land	Any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except--(1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.

CHAPTER 1

INTRODUCTION

Withdrawals are withholdings of Federal lands from settlement, sale, entry, mineral location or disposal under some or all of the general land laws. 1/ Withdrawals limit the use of the land to the specific purpose or purposes for which it was withdrawn. In recent years, withdrawals of Federal land from mineral exploration and development have become controversial and, while no accurate figures exist on the extent of the problem, some estimates for withdrawn lands ranged as high as 336 million acres. Mining interests claim that large withdrawals of public land from mineral exploration and development have threatened the Nation with increased resource imports, particularly of oil and gas. Environmental groups say that the withdrawal authority has been one effective legal tool for protecting environmental and aesthetic values.

In 1976, the Congress passed the Federal Land Policy and Management Act (FLPMA), which established procedures for creating new withdrawals and directed the Secretary of the Interior to review withdrawals of certain Federal lands. The review, authorized by section 204(*l*) of FLPMA is currently being conducted by the Bureau of Land Management (BLM), the agency responsible for surface land management for most public domain lands. It is the first sustained examination to remove obsolete withdrawals to make the land available for multiple use management, especially mineral exploration and development.

1/Conditions for mineral exploration and development differ on Federal lands. Minerals are disposed of by claim/patent, lease, or sale. Generally, all hard rock minerals are locatable (acquired by claims and patents for fee title ownership) under the Mining Law of 1872. Fuel and specified non-fuel mineral compounds are leasable, as specified in the Mineral Leasing Act of 1920, as amended. On most Federal lands, certain construction-type mineral resources such as "common varieties" of sand, gravel, and stone, are salable under the terms of the Materials Sales Act of 1947, as amended. Federal lands can be withdrawn from the operation of one or more of these laws while still opened to other uses.

LEGISLATIVE BACKGROUND AND HISTORICAL PERSPECTIVE

Overview of section 204 of FLPMA

FLPMA provides guidelines for the management, use, and disposition of the Federal lands. In section 204, the Congress exercised its oversight authority for setting aside Federal lands by delineating the specific terms and conditions under which the Secretary of the Interior can exercise withdrawal authority. Section 204 covers a variety of procedural requirements for making, modifying, and revoking withdrawals.

Section 204(c) and (d)

These sections establish uniform procedures for withdrawals by the Secretary of the Interior. They also establish congressional notification procedures for these withdrawals.

Section 204(e)

Emergency withdrawals are made when extraordinary measures must be taken to protect some Federal areas. (See ch. 5.) Congressional notification and the data outlined in section 204(c) are still required for these withdrawals after they are finalized.

Section 204(f)

This provision of FLPMA mandates that all withdrawals with a specific termination date are to be reviewed toward the end of their term. Reports to the Congress are required for all such withdrawals reviewed.

Section 204(ℓ)

This section establishes a 15-year period, beginning on the date of the act (Oct. 21, 1976), for a review of existing withdrawals in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Certain withdrawals are excluded from the review: (1) withdrawals of BLM and National Forest lands that did not close the land to mining or mineral leasing; (2) withdrawals of BLM and National Forest lands in wilderness, natural, primitive, or national recreation areas, regardless of whether the withdrawals closed the land to mining and mineral leasing; and (3) withdrawals of land within certain systems as of October 21, 1976 (Indian Reservations, National Forests, National Parks, Wildlife Refuges, Wild and Scenic Rivers, and National Trails).

Interior's program to review Federal land withdrawals

Although BLM has been reviewing withdrawals since the 1950s, because staff and resources were devoted to other programs, Interior did not implement a comprehensive review of Federal land withdrawals until 1978 when efforts to develop an inventory of withdrawn lands were begun. Interior officials, when developing the review program, expanded its scope to include lands not specified for review by the Congress. In addition to the withdrawn lands specified for review under section 204(ℓ) of FLPMA, the Secretary directed BLM to develop long-range plans and procedures for the complete inventory of all current withdrawals and for a systematic periodic review of them.

BLM's three-phase review

The first phase of Interior's program, developing an inventory of withdrawn lands, was completed in January 1980. The inventory was developed from a review of BLM land records, including master title plats, historical indexes, case files, and other sources as necessary to assemble basic descriptive and statistical data. The second phase entailed verification and reconciliation of the inventory data. The data gathered during the inventory phase were verified with the Federal department, bureau, or agency for which the land was withdrawn. Any discrepancies or disagreements regarding the inventory data were to be reconciled.

Following verification of the inventory, each BLM State office was directed to develop an implementation plan for its withdrawal review case workload for each year through 1991. During this third phase of rejustification and review, BLM will conduct reviews in coordination with other Federal agencies to determine the need for the withdrawn land. BLM will develop recommendations, which will be sent to the President and the Congress based on its negotiations and findings concerning whether the withdrawals should be continued or revoked.

ADMINISTRATION PLACES HIGH PRIORITY ON WITHDRAWAL REVIEW PROGRAM

In April 1982, the administration issued a "National Materials and Minerals Program Plan and Report to the Congress." The report emphasized the need to reduce America's material vulnerability and listed several actions Interior is taking to stimulate land availability for mineral exploration and development, placing primary emphasis on its ongoing withdrawal review program. For example, the administration intends to give priority review to those withdrawn lands identified by industry as having a high potential for mineral exploration and development. However, regulations to implement this action have not been finalized, and it is still unclear as to how the process will work.

OBJECTIVES, SCOPE, AND METHODOLOGY

On October 20, 1981, the Chairman, Subcommittee on Mines and Mining, House Committee on Interior and Insular Affairs, asked us to determine how Interior was implementing the FLPMA requirement to review existing Federal land withdrawals. He also asked us to identify what actions the Department was taking to review "de facto" withdrawals--lands withdrawn by informal or administrative means.

Our review objective was to examine how Interior was implementing its review of withdrawn Federal lands mandated by section 204(ℓ) of FLPMA. We selected 4 States--California, Utah, Oregon, and Wyoming--for in-depth examination after discussions with BLM staff who agreed that these 4 States would be representative of the program's operation in the 11 Western States. In addition, we selected these States because: California had the largest number (1,200) of withdrawals for review (6 million acres), Utah had over 400 withdrawals for review (11.5 million acres), Wyoming was identified by BLM staff as the State with the slowest progress in reviewing withdrawals and the most acreage withdrawn (over 14 million acres), and Oregon was identified by BLM staff as the State making the most progress.

We reviewed Interior's draft procedures, policy guidelines, instructions, and correspondence for the program; interviewed BLM officials at headquarters, and State offices; and interviewed officials of Interior's Solicitor's office to evaluate how decisions concerning the program were made. We also interviewed representatives of the mining industry.

We also attempted to measure the program's impact to date by determining the amount of acreage previously closed to mineral entry but now open because of the review. We did this by compiling the acreage from public land orders for recently revoked mining and mineral leasing withdrawals. Furthermore, we attempted to determine the amount of interest expressed in these previously closed lands as evidenced in lease applications recently submitted, active leases, and mining claims. This information was developed for our four sample States from a review of plat maps and relevant data at the State and district BLM offices.

To identify what potential problems exist in reviewing lands withdrawn by other Federal agencies, we interviewed officials designated as withdrawal review coordinators of the major land holding agencies--the Departments of Defense (DOD), and Energy (DOE), the Federal Energy Regulatory Commission (FERC), the U.S. Forest Service, the U.S. Coast Guard, the U.S. Geological Survey (USGS), the Bureau of Reclamation, the Army Corps of Engineers,

and the Federal Aviation Administration (FAA). Through discussions with Interior's budget officials and a review of related budget data, we attempted to determine how much money was spent to date and how much BLM expected to spend in completing the review.

We also determined the amount of Federal acreage not subject to review under section 204(ℓ) that might remain closed to mineral exploration and development. In our sample States, we obtained examples of "de facto" withdrawals which are not subject to any Interior review.

We began our indepth review in February 1982 and completed our audit work in June 1982. Because Interior's withdrawal review program is scheduled to continue until 1991, the results of this review should serve as an interim assessment of the program's progress. We conducted our review in accordance with GAO's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

CHAPTER 2

BLM'S PROGRAM PRIORITIES COULD BETTER REFLECT CONGRESSIONAL OBJECTIVES

BLM first established program priorities for reviewing lands withdrawn from mineral exploration and development and subject to section 204(ℓ) in line with the review objectives established by the Congress. However, in March 1981, these priorities were changed and the scope of the program was increased to include a review of lands not specified in section 204(ℓ) and already opened to mineral entry but closed to other uses. At the same time, the review of lands withdrawn by other Federal agencies and specified for review was delayed.

As a result of this change in priorities and BLM's allocation of program resources, withdrawals from mineral exploration and development are not receiving special review emphasis as the Congress intended.

INTERIOR'S INVENTORY OF WITHDRAWN FEDERAL LANDS

In 1976, when FLPMA was enacted, no accurate inventory existed of withdrawn Federal lands, which agencies managed them or what type of use restrictions they were under. The withdrawal review program was not considered a priority within Interior until 1978. In 1980, Interior had completed the first step in performing the section 204(ℓ) review when it published an inventory of Federal lands closed or restricted to certain uses. The inventory showed that about 165 million acres 1/ of Federal lands were restricted by withdrawal or classification from certain uses, including 133 million acres of lands administered by BLM. BLM program officials told us that the accuracy of the inventory data is questionable because it contains double counting of overlapping withdrawals for the same acreage, and discrepancies in the way the inventory data were collected. However, they believe it was the best available information on the amount and location of restricted Federal lands.

1/There are roughly 738 million acres in Federal ownership comprising about 29 percent of the 2.3 billion total acres in the United States.

The inventory data have been updated and revised several times. Appendix I shows revised inventory data as of June 30, 1981, including the number of withdrawals needing review, the amount of acreage withdrawn by State, and the type of withdrawal. Only BLM's initial inventory data, as shown in table 1, identified the amount of withdrawn land held by Federal agencies.

Section 204(ℓ) of FLPMA specifically limited the review of BLM and U.S. Forest Service withdrawals to those lands closed to mineral exploration and development. 1/ Therefore, the actual acreage subject to review under section 204(ℓ) of FLPMA was as follows:

Table 1

Actual Acreage Subject to FLPMA Section 204(ℓ) Review

Agency	Acreage (millions) BLM and Forest Service land closed to mining/leasing	All other withdrawn land	Total
Bureau of Land Management	30.4	-	30.4
Department of Defense	-	11.9	11.9
Bureau of Reclamation	-	9.1	9.1
Federal Energy Regulatory Commission	-	5.0	5.0
U.S. Forest Service	2.0	-	2.0
Nuclear Regulatory Commission	-	1.4	1.4
Other agencies	-	3.3	3.3
Total	32.4	30.7	63.1

Source: BLM Withdrawal Review Inventory.

The inventory developed by BLM showed that the major land holding agencies were BLM (30.4 million acres), the Department of Defense (11.9 million acres), and the Bureau of Reclamation (9.1 million acres), comprising 51 million of the 63.1 million

1/See chapter 5 for further discussion of lands excluded from section 204(ℓ) review.

acres to be reviewed under the act. The inventory also showed that this acreage was concentrated in Arizona, California, New Mexico, Utah, and Wyoming, with about 47 million of the 63.1 million acres. The inventory also showed the number of withdrawal cases by State. (See table 2 on page 12.)

As shown on the next page of the 11 States included in the program, 2 States--Utah and Wyoming--contained about 41 percent of the land to be reviewed by BLM.

SHIFT IN PROGRAM PRIORITIES

Section 204(ℓ) of FLPMA required a review of certain withdrawals of Federal lands administered by BLM and other Federal agencies in the 11 Western States to determine if continuation of the withdrawals was appropriate. Special emphasis was placed on withdrawals from mineral exploration and development. In 1980, BLM established priorities for the review program to accomplish this objective. However, the program was enlarged in March 1981 when priority was given to all BLM lands restricted from use by a withdrawal or land classification regardless of whether the lands were closed to mineral entry. In addition, the review of lands held by other Federal agencies was delayed until fiscal year 1983.

The original program priorities were as follows:

1. Review withdrawals from mineral leasing in the "Overthrust Belt" 1/ of the States of Arizona, Idaho, Montana, Nevada, Utah, and Wyoming.

2. Review withdrawals from mining and leasing known to contain minerals for all States.

3. Review withdrawals from mining and leasing suspected to contain minerals for all States.

4. Review all remaining mining and leasing withdrawals.

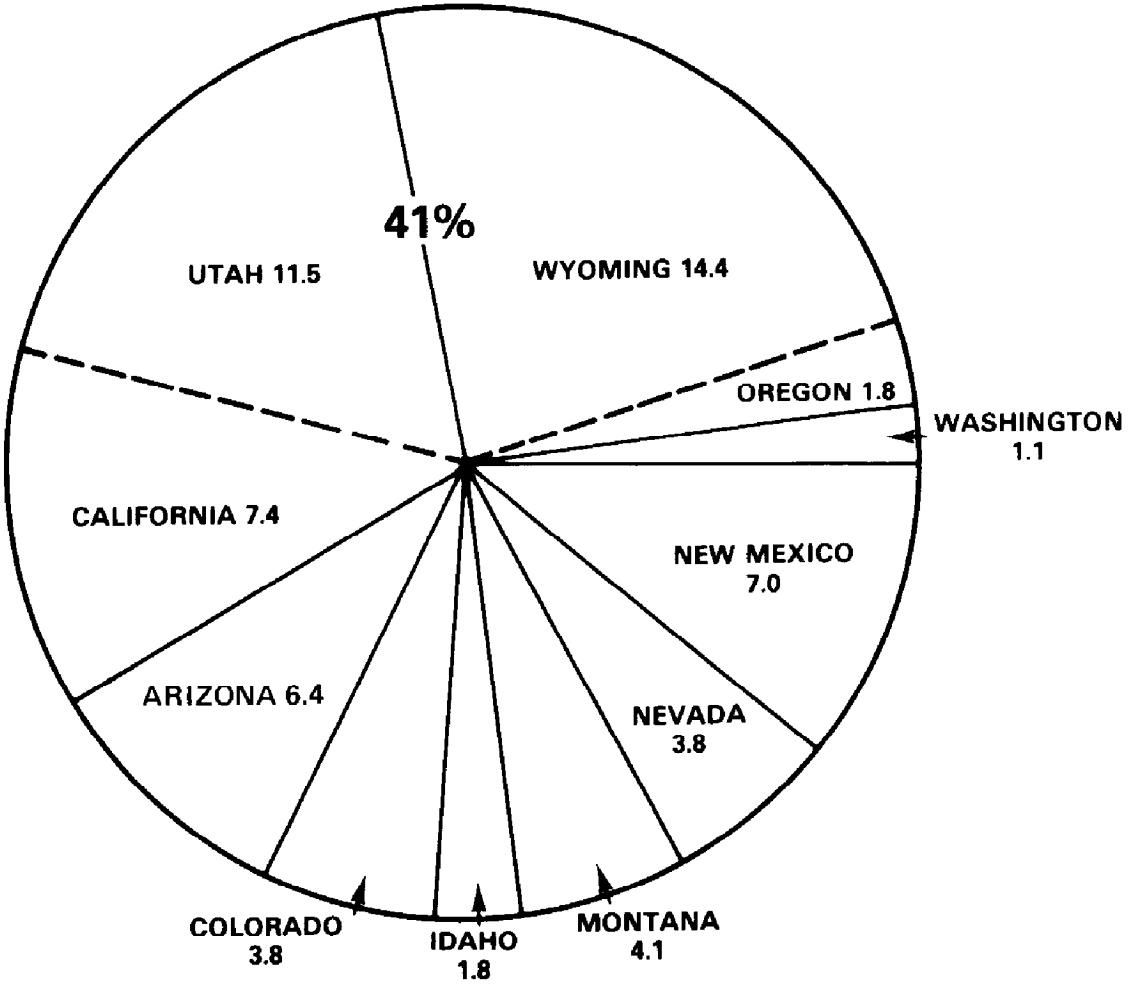
5. Review all other withdrawals.

The new program priorities established in March 1981 are:

1. Complete processing of all pre-FLPMA relinquishments and begin review of BLM withdrawals by the end of fiscal year 1981.

1/Those withdrawn lands with high potential for mineral development lying within the areas along the west slope of the Rocky Mountains.

FIGURE 1
TOTAL LANDS SUBJECT TO
FLPMA 204(ℓ) WITHDRAWAL REVIEW
BY STATE ACCORDING TO BLM'S INVENTORY
(million acres)



2. Complete review of all BLM withdrawals and processing of post-FLPMA relinquishments and negotiate a 9-year schedule for review of other Federal agency withdrawals by the end of fiscal year 1982.

3. Begin implementing the 9-year schedule for review of other Federal agencies withdrawals in fiscal year 1983 and complete review of 90 percent of land classifications by the end of fiscal year 1983.

Why BLM changed program priorities

The enlargement of the program was apparently done to allow the Bureau to do easy reviews first and achieve quick progress.

In a March 2, 1981, memo, BLM's Director explained the change in program priorities to the State directors. His memo stated that processing of some voluntary land relinquishments and BLM withdrawals could be essentially proforma and reviewed in a matter of hours. The Director noted that such progress will be increasingly difficult to achieve when dependent upon the review of withdrawals by other Federal agencies.

To assure implementation of the new priorities, they were incorporated into BLM's management-by-objectives system (MBO). This performance evaluation system is based on accomplishing specific objectives by a specific date each fiscal year. Yearly performance appraisals for State directors, BLM's directorate, and BLM division chiefs include consideration of MBO objectives and accomplishments.

BLM's acting Chief, Division of Lands, told us that despite the "pressure" to review Federal lands withdrawn from mineral exploration and development governmentwide on a priority basis, the decision to review BLM lands first made good management sense because

--BLM staff at headquarters and its regional offices would benefit from the training and expertise in reviewing BLM lands before reviewing other Federal agency withdrawals and

--BLM could not expect other Federal agencies to review their withdrawals before cleaning up its own records.

In addition, BLM also wanted to clear its records of outstanding relinquishments which had been voluntarily submitted by other agencies, but which BLM had never processed. BLM's Acting

Chief Division of Lands described the new prioritization of the withdrawal review program as an orderly approach toward record clearing which was long overdue.

Another reason, according to program officials, that BLM reviewed its lands first was that Interior spent about 1-1/2 years negotiating with other Federal agencies over which agency would provide the funding for the review. BLM officials consider this argument to have been settled when the Secretary of the Interior instructed the other Federal agencies to seek their own funding for the review program. However, as discussed in chapter 4, the funding question is still an issue with most of the other agencies involved in the review program and could affect the successful and timely completion of the program.

PROGRAM RESOURCES NOT ALLOCATED PROPORTIONATELY TO STATES WITH MOST WITHDRAWN ACREAGE AND BEST POTENTIAL FOR MINERAL DEVELOPMENT

BLM's emphasis is to show progress in reviewing numbers of withdrawal cases, and resources are allocated generally to the States on the basis of the number of individual withdrawal cases to be reviewed.

Our analysis of how BLM is implementing the withdrawal review program shows that BLM is not allocating program resources proportionately to those States with the largest amount of withdrawn acreage having the best potential for mineral development.

It appears that BLM headquarters officials did not consider acreage amounts or withdrawn acreage with high mineral potential as a primary basis for allocating program resources. If they had, then it seems logical that Wyoming, Montana, and Utah would have received the largest portion of program funds--the States with the largest amount of withdrawn acreage and considered among the best in terms of mineral development potential.

BLM also allocated program funding based on each State director's budget request and headquarters' determination of priorities. Some State directors placed a higher priority on the program than others and, therefore, requested and received more funding. In addition, some States, such as Oregon, had staff available to conduct the review while others, such as Wyoming, did not.

Table 2 shows a comparison of the number of withdrawal cases to be reviewed, the amount of acreage needing review, and the allocation of program resources for fiscal years 1981 and 1982 to the 11 Western States.

Table 2

Comparison of Number of Withdrawal Cases, Amount of Withdrawn Acreage, and Allocation of Program Funding for Fiscal Years 1981 and 1982

State	Number of withdrawal cases	Withdrawn acreage to be reviewed a/	Program funding for fiscal years 1981 and 1982 b/
Arizona (note c)	575	6,400,000	$ 395,000
California	1,825	7,400,000	967,000
Colorado	706	3,800,000	446,000
Idaho (note c)	734	1,800,000	452,000
Montana (note c)	634	d/ 4,100,000	285,000
Nevada (note c)	335	3,800,000	406,000
New Mexico	373	7,000,000	413,000
Oregon	954	1,800,000	482,000
Utah (note c)	515	11,500,000	403,000
Washington	558	1,100,000	(e)
Wyoming (note c)	576	14,400,000	387,000
	7,785	63,100,000	$4,636,000

a/Acreage figures are derived from BLM's initial inventory data.

b/Program funding data broken out by State are only available for fiscal years 1981 and 1982. This information includes funding for the withdrawal review program as well as processing new withdrawals as described on page 21.

c/States having withdrawn lands with high potential for mineral development according to the Department of the Interior.

d/As shown in appendix I, the amount of withdrawn acreage identified for Montana by June 1981 increased by about 8.3 million acres. This increase resulted from confusion among State officials during the initial inventory phase regarding the categorization of large amounts of withdrawn acreage.

e/Oregon's BLM office is responsible for implementing Washington State's program activities.

CHAPTER 3

AN INTERIM ASSESSMENT OF PROGRAM'S PROGRESS

Limited progress in revoking withdrawals of land from mineral exploration and development has been made because BLM has concentrated on reviewing its lands which are generally open to mineral entry. Furthermore, it appears unlikely that BLM will complete the review of its lands and begin reviewing all lands withdrawn by other Federal agencies on schedule. Chapter 4 discusses potential problems which may impede the timely and successful completion of the program's final phase.

FEDERAL LAND OPENED NATIONWIDE SINCE START OF PROGRAM

As of April 1982, BLM had revoked or modified use restrictions on 22.6 million acres of public land, opening approximately 18.5 million acres to some form of mineral entry. Only about 1 million acres have been opened to mining under the Mining Law of 1872. (We could not determine how much of the 22.6 million acres was already open to mining prior to BLM's actions.) In addition, millions of acres of withdrawn BLM land are presently under review.

BLM records show that the bulk of the 22.6 million acres, 16.7 million acres, was opened to mineral leasing by a November 1980 blanket modification, Public Land Order 5774, of certain protective withdrawals of lands with potential mineral values. This action did not open any public lands to mining under the mining law. This land had been withdrawn in the early 1900s before the passage of the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970. BLM experienced difficulty in managing these withdrawn lands because it was unclear whether the lands were withdrawn from the mineral or geothermal leasing laws since the laws did not exist at the time of withdrawal.

The purpose of the public land order was to eliminate any uncertainty by providing definitively that the withdrawals were open to mineral or geothermal leasing, subject to valid existing rights, overlapping withdrawals, and other applicable laws. However, the extent to which the accessibility of much of the acreage changed is unclear--the public land order only modified the terms of the existing withdrawals. The public land order did not terminate any withdrawal. For example, the 4 million acres affected by this action in Utah were always considered by BLM State officials as being available for leasing under the Mineral Leasing Act of 1920. Since there are no known geothermal resources on the lands, opening them to geothermal development would have no effect.

Most of the remaining acreage has been opened as a result of BLM's clearing its books of relinquishments of Federal land which other agencies have volunteered as part of their normal land management responsibilities. Many of these cases were pending for years at BLM--some dating back to 1964--but were not processed until recently. In fiscal year 1981, for example, BLM processed 2.5 million acres of withdrawal relinquishments which were pending prior to the enactment of FLPMA.

At the time of our review, BLM had also terminated about 100 million acres of land classifications of which only about 3 million acres were closed to mineral exploration and development. The majority of land classifications being reviewed by BLM never closed lands to mining or mineral leasing. As discussed in chapter 2, land classifications were not included as part of the withdrawal review program by the Congress. Rather, they were required to be reviewed under the land use planning procedures of FLPMA 202(a) and (d). However, BLM believed that some classifications close lands to the operation of the public land laws and could be considered "de facto" withdrawals. As such, BLM combined their review with the FLPMA withdrawal review mandated by section 204(ℓ).

Both BLM and Solicitor's office officials indicated that Interior's examination of classifications under the withdrawal review program might not fulfill the requirement of sections 202(a) and (d) of FLPMA to evaluate classifications while land use plans are being prepared. As a result, remaining land classifications might have to be reviewed again as part of the land use planning process--an unnecessary duplication.

PROGRAM PROGRESS IN CALIFORNIA, OREGON, UTAH, AND WYOMING

It is likely that the review of BLM lands will continue into fiscal year 1983 even if BLM's performance evaluation system shows that all target dates have been met. The progress in reviewing withdrawal cases as reported through the MBO system can be misleading. For example, for fiscal year 1982, BLM has a target "to complete field review and case processing for 1,300 BLM withdrawals." This objective is considered to be met when a withdrawal case file is transmitted to headquarters from the State offices for final processing. Sometimes cases must be returned to the States for further work but do not get recounted against MBO targets.

In order to meet its MBO target of completing the review of all BLM lands in fiscal year 1982, BLM has recategorized certain BLM withdrawal cases as lands managed by other Federal agencies and, therefore, subject to the next phase of the review program. Specifically, a BLM oil shale withdrawal (4 million acres), a coal withdrawal (6.7 million acres), and phosphate withdrawal (1 million acres) in Wyoming are being considered as Minerals Management

Service (MMS) withdrawals. While originally MMS was to classify the mineral potential of this acreage, it was not considered to be the managing agency. According to the BLM Wyoming program official, given current resources, in order to complete its review of BLM withdrawals by the end of fiscal year 1982, Wyoming postponed review of these lands by deleting them from BLM's inventory and showing them as MMS withdrawals.

Our analysis of BLM withdrawal revocations in California, Oregon, Utah, and Wyoming, as of May 1982, shows that of the 13 million acres opened in the four States, only 2 percent were opened to mining. The remaining acreage was in some degree already opened to mineral leasing. The table below shows the progress made in revoking BLM withdrawals in each of our four sample States.

Table 3

Withdrawals Revoked and Acres Restored to the Operation of the Mining and Leasing Laws in the Four Review States a/

(as of May 1982)

State	Total acres revoked	Acres opened to mineral exploration and development a/	
		Mining	Leasing b/
California	256,078	102,946	118,768
Oregon	139,629	23,077	630
Utah	4,804,250	93,413	4,004,650
Wyoming	7,864,797	29,742	7,787,056
Total	13,064,754	249,178	11,911,104

a/Some revocations opened land to both mining and leasing. These acres are included in both categories.

b/Includes lands from the 1980 blanket modification discussed on p. 13 which may have already been available for leasing.

As discussed, BLM expanded its withdrawal review program by including land classifications. As shown in table 4, land classifications did not segregate much land from mineral exploration and development in our four sample States.

Table 4

Classifications Terminated and Lands Restored to Operation of the Mining or Leasing Laws in Four Sample States

(as of March 1982)

State	Acres terminated	Acres open to mineral exploration and development
California	122,943	37,262
Oregon	248,101	42,907
Utah	23,769,713	264,789
Wyoming	3,158,451	70,900
Total	27,299,208	415,858

Besides final actions on withdrawal cases, we determined that at the time of our review, about 271 cases were in process at the State level in California, Oregon, Utah, and Wyoming or headquarters. (See table 5.)

Table 5

Analysis of Withdrawal Review Casework in Progress (note a)

State	Total cases	Pending revocations	Pending continuations
California	76	40	36
Oregon	108	63	45
Utah	15	14	1
Wyoming	72	65	7
Total	271	182	89

a/Data do not include large numbers of cases in process at district levels, since State offices do not maintain such records until the cases come to the State.

Not reflected in this table are public water reserves 1/ which constitute the bulk of withdrawal cases remaining to be processed through State offices in Wyoming and Utah. At the time of our review, State program officials had not received clear guidance from headquarters regarding what would be accepted as justification for the continuation of these withdrawals. They were, therefore, moving cautiously to assure acceptance of these proposed withdrawal continuations. Headquarters officials recently told us that the required guidance was sent to the States.

Wyoming is making slow progress

In general, each of the four State BLM offices were making progress in reviewing, revoking, and processing BLM withdrawals. Progress was made despite the absence of final program guidelines until May 10, 1982, and the lack of specific guidance from headquarters on processing certain types of withdrawals, including public water reserves.

Of the four States we visited, Wyoming, the State with the largest amount of acreage withdrawn, made the slowest progress and experienced the following unique problems:

--Verification of its initial withdrawal inventory with other Federal agencies was not completed.

--Computerized data bases for inventory information were not implemented due to the lack of qualified staff.

--The withdrawal review coordinator was only recently designated.

--Review of the largest withdrawals was delayed to allow MMS to perform mineral assessments.

In addition, Wyoming got off to a slow start because the former State director did not commit substantial resources to the program. He believed the program should not proceed until headquarters provided final instructions on the work to be done. As a result, Wyoming had made no progress at all in the first 15 months of the program's operation. In a January

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1/Public water sources, including those which have never been formally identified or discovered, were withdrawn by Executive Order No. 107 in 1926. Considerable efforts have been taken by BLM State offices to assure that previously undiscovered water sources are identified and their withdrawal continued.

1981 memo, BLM's Assistant Director for Land Resources criticized Wyoming for making little progress and threatened to shift funding and personnel from Wyoming to States with better progressing withdrawal review programs.

Currently, Wyoming's progress has been further delayed by a shortage of realty specialists who perform initial reviews at BLM district and area offices. At the time of our review, the field positions had not been filled in anticipation of a reduction in personnel ceilings at the Wyoming State office.

State offices experiencing problems with program requirement for mineral reports

According to BLM officials, mineral reports are required under the program if there are indications that the lands being reviewed are mineralized. However, BLM has not developed instructions, standards, or guidelines regarding the preparation of these mineral reports. Furthermore, the preparation of adequate mineral reports requires special knowledge which is generally not available in the other Federal agencies participating in the program.

BLM's program officials in all four States we visited told us that headquarters' lack of clarification of what mineral reports must contain, which agency is responsible for doing them, or who must approve them has resulted in reports of widely variable quality. They believe this problem will become more serious during the review of other agency withdrawals and may impede program progress. BLM estimates that the cost for the mineral reports for some agency withdrawals could range from $200 to $200,000, and in most cases would be paid for by other Federal agencies. In previous GAO reports 1/ we have noted that Interior's minerals management functions are fragmented among several agencies with little or no coordination. We believe that the situation regarding mineral reports offers further evidence of this problem. Chapter 5 discusses additional problems with FLPMA's requirements for mineral reports.

Interest expressed by mining industry in recently opened lands in four sample States

Interior officials told us that mining companies had expressed definite interest in some of the BLM withdrawn lands recently opened to mineral exploration and development. Because

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1/"Minerals Management at the Department of the Interior Needs Coordination and Organization," EMD-81-53, June 6, 1981; "Mining on National Park Service Lands--What Is at Stake?" EMD-81-119, Sept. 24, 1981; and "Interior's Mineral Management Programs Need Consolidation to Improve Accountability and Control," GAO/EMD-82-104, July 27, 1982.

State recordkeeping procedures vary, it was difficult to determine mineral exploration and development interest in some States. In Utah and Wyoming, for example, BLM's information was not current enough to show mining activity on recently opened lands. Mineral leasing information for California and Oregon was incomplete because of delays in recording recently issued leases and lease applications. In our four sample States, we found some mining and leasing activity, but little or no evidence of "claim rushing" on recently open land.

Mining industry officials in California and Oregon expressed little concern about the lack of activity. According to one Oregon mining industry representative, the withdrawal review program does not involve highly mineralized land in Oregon. A California mining industry representative stated that although there may be little mining or leasing activity at present, changing economic conditions or improved survey techniques could make newly opened land valuable. He further stated that some newly opened lands may have been extensively surveyed and noted for future exploration by mining companies.

In addition, we found that withdrawing Federal lands from mining activity does not always prevent mineral entry. In the four States we visited, we found that BLM had recorded mining claims filed on land which was supposedly withdrawn from mineral entry. BLM is aware of this problem and believes that it is almost impossible to control. State officials said they lack sufficient staff to determine the legality of all mining claims filed. Furthermore, they believe the field offices do not have enough people to patrol withdrawn land and prevent unauthorized mining entry.

STATES WHERE FUTURE WORKLOAD WILL BE CONCENTRATED

As the chart on page 7 shows, 52 percent of the withdrawn public land subject to review under section 204(ℓ) of FLPMA is held by Federal agencies other than BLM. BLM intends to review these withdrawals beginning in fiscal year 1983. Our analysis of Interior's initial inventory of withdrawn lands shows that the major review effort for the next segment of the withdrawal review program will be concentrated in the States of Arizona (5.7 million acres), California (5.6 million acres), Utah (4.3 million acres), Montana (3.4 million acres), and New Mexico (3.1 million acres)--the States with the most acreage withdrawn by holding agencies. According to an Interior budget official, preliminary fiscal year 1983 budget requests for the 11 Western States show that the BLM State offices in California, Oregon, Colorado, and Nevada have requested 50 percent of the total budget for proposed withdrawal review.

As discussed in chapter 2, BLM has not allocated resources proportionately to those States with the most withdrawn acreage and best potential for mineral development. We believe allocation of funds for the remainder of the program should consider congressional objectives more than has been done in the past.

CHAPTER 4

FINAL PHASE OF WITHDRAWAL REVIEW PROGRAM FACES FUNDING AND SUPPORT PROBLEMS

The successful and timely completion of the final program segment, the review of public lands withdrawn by other Federal agencies, commonly referred to as holding agencies, may be impeded by a lack of funds resulting in low priority being placed on the review by these agencies. Furthermore, because Interior has decided that the participating Federal agencies should seek their own program funding, it is unlikely that all of them will begin reviewing their lands in fiscal year 1983 and complete the review by 1991.

COST OF COMPLETING WITHDRAWAL REVIEW PROGRAM GREATLY EXCEEDS ORIGINAL ESTIMATE

Appropriations for activities connected with reviewing existing withdrawals and processing new withdrawals as well as most other BLM programs are authorized by the Quadrennial Authorization Act of 1978 (P.L. 95-352). A new authorization will be required for BLM appropriations in fiscal year 1983.

BLM's funding for withdrawal review activities is provided through annual appropriations. BLM receives appropriations for the "management of lands and resources." In the appropriations, 1/ the Congress has not given specific direction to BLM on how appropriated money should be spent on the withdrawal review program. However, section 204(ℓ)(3) of FLPMA authorized that no more than $10 million be appropriated to review existing specified withdrawals. Interior's budget officials estimate that by the end of fiscal year 1983, BLM will have spent $12.9 million. Furthermore, these officials estimate that $48.4 million will be required to complete BLM's participation in reviewing ($38.9 million) and processing ($9.5 million) withdrawals through 1991.

BLM program officials could not estimate the cost of the holding agencies' involvement in the program. Headquarters officials designated as withdrawal review program coordinators for the holding agencies could not provide us with estimates of the program's cost through 1991 because they are not sure of how much review of other agencies' withdrawals will be required.

1/Public Law 96-126, Public Law 96-514, and Public Law 97-100.

BLM did not separately account for section 204(ℓ) expenditures

Interior was given unique mandates and the Congress provided specific appropriation authorization limits in FLPMA for two types of withdrawal activities: (1) the processing of pre-FLPMA withdrawal applications (see ch. 5) and (2) the review of specified existing withdrawals in 11 Western States. These limits were contained in sections 204(k) and 204(ℓ)(3), respectively, of the act and $10 million was authorized for each activity, for a total of $20 million. Because Congress provided unrestricted appropriations and Interior did not use available budgetary controls to separately track expenditures for each activity, we could not determine how much money has been spent to date on these activities.

Funding for activities related to processing new withdrawals and reviewing existing ones comes from BLM's Management of Lands and Resources appropriation account 14(10-04)1109-0-1-302. Under this account, withdrawal review activity (sub-activity code 4213) is one of three sub-activities of the lands and realty management program. For this sub-activity, BLM established two specific job codes to track time charges for work performed on withdrawal processing and the withdrawal review program.

Our analysis of the time BLM staff charged against the withdrawal review program code shows that through fiscal year 1982, $9.4 million will have been charged to the withdrawal review program. However, this amount includes time spent on Bureau programs outside the section 204(ℓ)(3) authorization. Examples are work related to section 204(f) (the continuing review of expiring withdrawals) and section 202(d) (review of BLM land classifications) of FLPMA.

BLM's budget office originally set up a series of special job codes that would have allowed Interior to account separately for time spent on activities specified by sections 204(ℓ)(3) and 204(k). However, all staff did not use these job codes, and Interior did not track expenditures for the withdrawal review program. Therefore, we could not determine how much money has been spent to date on the section 204(ℓ) review.

Interior's proposal to increase original limitation

In October 1980, Interior submitted a proposed quadrennial authorization bill to the Congress which would increase the $10-million appropriation authorization ceilings in sections 204(k)

and 204( )(3) of FLPMA. However, the Congress has yet to act on this legislation, and this administration has not pursued this legislative change.

BLM's Assistant Director for Land Resources believes that Interior has sufficiently notified the Congress of the need for additional authorization for withdrawal review program funding in its fiscal year 1983 appropriation request. In its request, BLM states that "Additional authorization amounts for FY 1983 to cover withdrawal review are required at the proposed level of funding." According to the Assistant Director, passage of Interior's fiscal year 1983 appropriation would exceed the appropriation authorization ceiling in section 204(ℓ)(3).

FUNDING PROBLEMS COULD IMPEDE REVIEW OF HOLDING AGENCY WITHDRAWALS

Beginning in fiscal year 1983 and ending in 1991, BLM will implement the next phase of the program which includes reviewing public lands withdrawn by other Federal agencies. During this phase, the holding agencies will perform the work necessary to justify their withdrawals. BLM will review the justifications and process the paperwork.

The review of holding agencies' withdrawals will determine: the length of time for which the withdrawal should continue, whether all the lands withdrawn are needed for present and future purposes by the holding agencies, and to what extent multiple-use activities can be accommodated within the withdrawal boundaries.

Although BLM is responsible for conducting the review program, section 204(ℓ) did not specify which agency is responsible for obtaining program funding. At the time of our review, Interior and the holding agencies disagreed over responsibility for obtaining the funding necessary to conduct the review. Interior's position is that each agency is responsible for review of its withdrawn lands and expects that all major Federal landholding agencies will seek the necessary funding to initiate review of their withdrawals beginning in fiscal year 1983. Generally, the holding agencies' withdrawal review coordinators indicated their belief that the withdrawal review program was Interior's program and, therefore, Interior should fund the entire program. Furthermore, BLM had not, until May 10, 1982, developed written procedures explaining what the holding agencies were required to do when reviewing their withdrawals. As a result, most holding agencies did not seek funding for this activity in their fiscal year 1983 budgets. Only the Bureau of Reclamation has requested money for review of its withdrawals in fiscal year 1983.

In April 1980, Interior conducted an interagency withdrawal-review-program meeting with representatives of the Federal agencies

holding significant amounts of withdrawn public land. At this meeting, Interior officials discussed two alternatives for funding the withdrawal review program. The first was for holding agencies to request their own appropriations and personnel through normal budgetary processes. The second was for BLM to request all necessary funding and, through memorandums of understanding, reimburse holding agencies for work done on withdrawal review. Holding agencies' representatives at the meeting generally recommended the second approach.

After the meeting, Interior reevaluated its position and concluded that seeking funding for other agencies would not be practicable. In October 1981, the Secretary of the Interior sent the holding agencies a letter notifying them of Interior's new decision. The Secretary stated that Interior had notified the Office of Management and Budget (OMB) of the situation and would work with OMB to support the review funding needs of other agencies. A followup letter was sent in July 1982. However, little, if anything, has been done to ensure that the holding agencies obtain the funding necessary to review their withdrawals. Furthermore, BLM program officials are not sure what kind of assistance they can provide to the holding agencies to ensure funding for the program.

Monitoring holding agency efforts to seek funding for the program has been identified by BLM as an objective requiring MBO action. However, program officials told us that little has been done to date regarding this matter and, in fact, they were not aware that it was in their MBO targets.

Interior received a written response to the Secretary's first letter regarding its funding decision from one holding agency. On December 2, 1981, the Chief of Engineers, U.S. Army Corps of Engineers, Department of the Army, informed the Secretary that the Corps of Engineers' budget for fiscal year 1983 was submitted to OMB with no provision for funding the review program. He stated that the earliest possible time that withdrawal review funding could be requested through the normal budgetary process would be in fiscal year 1984 or fiscal year 1985. On April 20, 1982, the Assistant Secretary of the Army for Civil Works notified the Assistant Secretary of the Interior for Land and Water Resources that until BLM issues withdrawal review procedures, his agency has no basis for requesting program funding. As indicated earlier, BLM provided holding agencies with written procedures on May 10, 1982.

Most agencies expect funding problems

Although only the Department of the Army has notified Interior in writing about potential funding problems, all of the holding agencies' withdrawal review coordinators we spoke with,

except the Federal Energy Regulatory Commission (FERC), 1/ disagree with Interior's decision to let the holding agencies seek their own funding for the program.

The holding agency program coordinators feel that the withdrawal review program is Interior's program and, therefore, Interior should take the responsibility for assuring the program's adequate funding. Although holding agency coordinators expressed a willingness to participate in the review program, they believed funding would be difficult to obtain, especially when competing against the agencies' own programs for scarce resources. Furthermore, every holding agency program coordinator we spoke with stated that reviewing withdrawals is a low priority when compared with ongoing agency programs.

Specifically:

--Withdrawal review coordinators for the U.S. Coast Guard said their agency had recently sustained a $16-million cut in operational funds and doubt very much that they could obtain funding for reviewing their withdrawals. In addition, the Coast Guard program coordinators believe that reviewing their withdrawals (about 111 in the 11 Western States) would necessitate surveying specific boundaries, which has never been done for their lands. One coordinator estimated that the cost of conducting these surveys could run as high as $100 per hour for each of the 111 sites.

--The DOE coordinator doubted that much funding could be allocated for withdrawal review since dismantlement of the agency is being contemplated by the administration.

--The coordinator for the Forest Service stated that funding for the program looked "bleak" because revenue-generating programs, such as timber harvesting, are top-priority programs within the Department of Agriculture.

1/As will be discussed later, FERC views its review program as separate from Interior's and, therefore, believes it is not held to the review procedures or work schedules developed by Interior.

--DOD's program coordinators representing the Departments of the Army, the Navy, the Air Force, and the Corp of Engineers told us that if Interior did not require more than a "pro forma" type of review of its land withdrawals, the entire effort could probably be funded out of funds allocated for administrative expenses and would not require a separate budget line item. However, if the review effort entailed protracted negotiations or if DOD was required to perform mineral assessments for some of its lands, the program would soon experience funding difficulties.

--The program coordinator for FAA also believed that funding for the review could be provided from "administrative expenses" if the review effort did not require much work. However, if much time and effort are required to review FAA lands, the money probably would not be available.

Even agencies within Interior expect program funding problems. For example, the USGS coordinator stated that recent budget cuts have jeopardized the agency's review program and doubted that the review could be completed by the year 2010. Of the major Federal land-holding agencies participating in the program, only the Bureau of Reclamation, which is also in the Department of the Interior, has requested money for its fiscal year 1983 budget for reviewing its withdrawals. The Bureau's coordinator told us that $500,000 was budgeted for the review effort for fiscal year 1983. However, because the Bureau is not sure of the amount of effort needed to review its withdrawals, it does not know how much money will actually be needed to conduct the review. Furthermore, Bureau officials disagree with the decision to allow the holding agencies to seek their own funding but are requesting funds for the program because of the high priority the Secretary of the Interior places on it.

REVIEW OF HOLDING AGENCY WITHDRAWALS MAY PROVE DIFFICULT

BLM program officials expect holding agency withdrawal reviews will be costly and time consuming due to protracted negotiations, and they expect the reviews to take considerably longer to accomplish than BLM withdrawals. Furthermore, BLM officials believe they will have to rely heavily on the holding agencies' rationales for maintaining their withdrawals since BLM does not possess the expertise to question whether the agencies' programs really require the use of all the withdrawn lands. These officials could be right, based on BLM's experience thus far in reviewing a major DOE withdrawal.

BLM has been reviewing one DOE withdrawal--the 504,000-acre Idaho National Engineering Laboratory--on a pilot test basis. DOE presently conducts nuclear research and testing programs on this land, involving total annual funding of about $500 million and employs about 10,000 people. This is the only indepth review of a holding agency withdrawal performed to date.

BLM staff consider this withdrawal as one of the most complex and costly ones they will review because of its size and the nature of the activities being conducted. Although we realize that all the holding agency withdrawals may not require the same level of effort, we believe it indicates the kind of analysis and negotiation that will be required when reviewing holding agencies' withdrawals.

BLM did not take issue with DOE on its rationale for maintaining the boundaries of the withdrawal because it was obvious to both parties that BLM possessed little expertise in the nuclear reactor field. BLM State officials believed that a proper indepth review should have been conducted by a professional consulting firm familiar with nuclear test reactors but were unable to obtain the necessary funding for such a contract. Instead, BLM performed its own analysis, with the assistance of DOE officials, to determine whether all 504,000 acres were essential for the sole purpose of conducting the DOE programs.

To date, BLM and DOE have been negotiating for more than 1 year over the following three items:

--The length of time for which the withdrawal should continue.

--Whether all the land withdrawn is needed for present and future purposes.

--To what extent multiple use activities can be accommodated within the withdrawal boundaries.

BLM and DOE have reached a tentative cooperative agreement, but the negotiations are still continuing.

DOE's withdrawal review coordinators estimated that DOE has spent approximately $74,000 on this review. BLM's program officials in Idaho could not estimate their total costs involved in the review. However, they estimate that $3,600 was spent on the mineral report that BLM prepared for this withdrawal.

BLM officials not sure if review of holding agencies' withdrawals will release much land

Withdrawal review coordinators for each of the major holding agencies told us they expect to cooperate with BLM officials in reviewing their agency's withdrawals. However, they stated that, generally, they expect to justify and retain much or all of the land within their existing withdrawals. Some officials acknowledged that they may agree to give up some lands on the perimeters of their withdrawals but not substantial acreages.

BLM's withdrawal program officials told us that although they realize that much of the land presently within the holding agencies' boundaries will be retained, they do expect that some perimeter lands will be released. They also believe that some lands withdrawn by holding agencies may never be opened to mineral exploration and development. One BLM official suggested that BLM might be able to get better cooperation and results in reviewing the holding agencies' withdrawals if

--the Secretary of the Interior issued a directive to Interior bureaus to ensure their cooperation and

--the President issued an executive order to the holding agencies defining the agencies' duties and responsibilities for ensuring the program's success.

Establishment of expiration dates may be most significant program achievement

Most of the holding agency withdrawals subject to section 204(ℓ) review were created without an expiration date and, until FLPMA's passage, were considered to be indefinite or perpetual withdrawals. But the Congress intended to strengthen Interior's management of the public lands by requiring periodic review of withdrawals to determine if their continued use was justified. BLM program officials told us that an expiration date for withdrawals would be the most probable significant achievement of reviewing holding agency withdrawals. Each withdrawal would have to be rejustified again at the end of its term.

Although FLPMA does not prescribe any specific term for the continuation of a withdrawal subject to review under section 204(ℓ) review, it requires these continuations to be for a period of time consistent with the statutory objectives of the programs

for which the lands were withdrawn. This determination is to be made by the Secretary of the Interior and reported to the President and then the Congress.

According to BLM program officials, the terms for these withdrawals will probably be associated with the anticipated life or mission of the holding agency's programs. Some of the holding agency withdrawal review coordinators we spoke with indicated their desire for 100-year continuation periods for all their agency's withdrawals. However, BLM program officials believe that 100 years is excessive and in most cases expect to negotiate a 20- to 50-year withdrawal period, at which time the withdrawal would have to be reviewed again. BLM program officials have not established any criteria for its field offices in determining an expiration date because they believe each withdrawal rejustification will be different and the determination must be made on a case-by-case basis.

Holding agencies can comment on Interior's recommendations

If holding agency officials disagree with the expiration dates or other proposed changes to their withdrawal by the Secretary of the Interior, they can comment on the recommendations to the President and the Congress. Section 204(ℓ) requires the Secretary of the Interior to report his recommendations for the continuation of holding agency withdrawals to the President, together with a statement of concurrence or nonconcurrence from the department or agency which administers the land. The report is then to be submitted to the Congress with the President's recommendations for actions. This requirement allows the President and then the Congress to review and modify Interior's final decision on each holding agency withdrawal before the continuation is approved.

A disagreement exists within BLM over the handling of withdrawals which holding agencies want to continue. BLM's Office of Legislation and Regulatory Management has refused to forward any continuations for final signature because it believes section 204(a) does not authorize the Secretary of the Interior to continue a withdrawal. If withdrawals are continued, the office argues, only section 204(ℓ) can be used, which requires recommendations to the President and the Congress prior to final Interior action.

However, BLM's withdrawal review program officials disagree and believe FLPMA authorizes the Secretary to voluntarily continue existing withdrawals for which formal review has occurred.

ENGLE ACT MILITARY WITHDRAWALS AND FERC POWER PROJECT WITHDRAWALS ARE BEING TREATED DIFFERENTLY

Most military withdrawals are subject to the withdrawal review program of FLPMA section 204(ℓ). However, BLM has made a distinction between its review of pre- and post-Engle Act (1958) 1/ withdrawals. All pre-Engle Act withdrawals will be reviewed and recommended for continuation, modification, or termination. However, BLM does not plan to reevaluate Engle Act withdrawals. According to BLM program officials, they are not reviewing these withdrawals because they do not wish to question Congress' original objective in establishing them.

FERC officials are unsure whether FERC hydroelectric project withdrawals are subject to review under section 204(ℓ). FERC officials, believe, however, that a review of their projects is necessary and are working with BLM staff to identify essential power project withdrawals. FERC plans to develop a list or index of essential project withdrawals which include currently licensed projects, outstanding permits, pending permit and license applications, and significant undeveloped reservoir sites that have been withdrawn but do not fall within the other categories. Those project withdrawals not considered essential will be vacated or eliminated.

The FERC official coordinating this work with BLM stated that little progress has been made in developing the list of essential project withdrawals because of higher priority work.

1/Engle Act (43 U.S.C. 154-158) states that military withdrawals over 5,000 acres can be established only by an act of Congress.

CHAPTER 5

MUCH FEDERAL LAND WILL CONTINUE TO BE CLOSED TO MINERAL EXPLORATION AND DEVELOPMENT

In addition to evaluating the implementation of Interior's withdrawal review program, we also attempted to define the extent to which Federal lands will be accessible to mineral exploration and development. Large areas of Federal land excluded from withdrawal review are essentially closed to mineral entry. We also found that administrative and management decisions, especially mineral leasing decisions by BLM, are effectively restricting access to public lands. Interior is not reviewing these "de facto" withdrawals, which continue to be a major deterrent to mineral exploration and development on Federal lands.

Some new withdrawals of Federal lands from mineral entry are continuously being processed under procedures established by section 204(c) and (d) of FLPMA; however, they are subjected to a rigorous justification process by BLM.

FLPMA EXCLUDED MAJOR CATEGORIES OF LAND FROM WITHDRAWAL REVIEW

The Congress excluded numerous categories of Federal land from the 204(ℓ) review. As shown in table 6 on the following page, these areas include certain BLM and Forest Service lands, all Indian lands, all units of the National Park system, all Fish and Wildlife Service lands, the Wild and Scenic Rivers and National System of Trails, all wilderness areas, primitive and natural areas, and recreation areas. These lands are generally areas set aside from all but specified uses by the Congress.

DE FACTO WITHDRAWALS ARE NOT BEING EVALUATED BY INTERIOR

A variety of administrative actions, such as refusals to lease public land by BLM district managers or holding agency officials, can effectively close lands to mineral exploration and development or "de facto" withdraw them without the formal mechanism of a withdrawal. In a previous report, 1/ we identified lands closed to mineral leasing by a variety of administrative actions. We recommended that the Secretary of the Interior (1) establish criteria on which "no leasing" decisions should be based, (2) maintain records of "no leasing" decisions for congressional oversight, and (3) inventory lands closed by

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1/"Actions Needed to Increase Federal Onshore Oil and Gas Exploration and Development," EMD-81-40, Feb. 11, 1981.

Table 6

Lands Excluded from Review by 204(ℓ) FLPMA

Agency	Acres
BLM lands (not closed to mining or leasing) (note a)	364,756,000
Indian lands	227,000
National Forest System	158,002,000
National Park System	61,447,000
National Wildlife Refuge System and Other Fish and Wildlife lands	38,686,000
National Wild and Scenic Rivers (note b)	-
National System of Trails (note b)	-
Federal lands withdrawn for other agencies in 39 other States (note c)	-
BLM/Forest Service lands closed to mining and leasing in 39 other States (note c)	-
Total	623,118,000

a/While not subject to the FLPMA review, BLM has decided to evaluate about one-third of these lands in the 11 Western States.

b/Included in Park System total.

c/Acreage figures for these lands located mostly in the Eastern United States are not available.

management decisions to rejustify the need for many of these administrative closures. We also recommended that the Secretary establish standards and criteria for applying restrictive lease stipulations. Our current review shows that Interior has not addressed the problems we previously identified with de facto withdrawals.

While FLPMA did not require a review of de facto withdrawals, we believe that administrative actions can be a major deterrent to mineral exploration and development on Federal lands. Interior does not have a program to review de facto withdrawals because it feels such a program would be time consuming and expensive. At the same time, Interior officials admit that if de facto withdrawals are not controlled, the problem will only intensify and more Federal lands will be informally removed from mineral exploration and development and nobody will be aware of the amount of Federal land that is really inaccessible.

During this review, we found a variety of de facto withdrawals in the four States we visited. (See table 7.) For

Table 7

De Facto Withdrawals

Type of area	Closed to:	California	Oregon	Utah	Wyoming
		(acres)			
Pending withdrawal applications	mining	521,720	145,520	44,420	102,000
"No leasing" areas	mineral leasing	352,000	-	1,519,600	803,300
Potential wilderness areas	mineral leasing	2,000,000	388,000	938,400	3,123,860
State Selection lands	mining and mineral leasing	-	-	220,000	-
Fish & Wildlife System lands	mineral leasing	255,200	508,700	101,815	74,300
Total		3,128,920	1,042,220	2,824,235	4,103,460
Other access restrictions, including wilderness stipulation		10,248,000	3,045,000	4,699,000	500,000

example, at least 11 million acres have been closed to either mining or mineral leasing by informal or administrative actions. An additional 18.5 million acres, primarily wilderness study areas, are highly restricted for mineral entry.

Pending withdrawal applications

About 10.6 million acres of withdrawal applications are currently pending at BLM. These applications effectively close the lands to multiple use activities. Applications filed after FLPMA was enacted are de facto withdrawn for 2 years. Any applications filed prior to FLPMA must be processed by 1991 and will remain closed to multiple uses until finalized.

Section 204(g) permitted closure of these lands for 15 years. About 5.8 million acres, primarily in Arizona, Montana, and Nevada are subject to this 15-year de facto withdrawal. In our sample States, over 800,000 acres have been applied for as withdrawals and are largely closed to mining. About 86 cases are currently pending in the four States we visited.

No-leasing decisions

In our four sample States, about 2.7 million acres have been closed to mineral leasing through BLM and other decisions not to allow leasing. About 1.6 million acres of BLM land have been specifically categorized as no-leasing areas. In Utah, 647,500 acres were identified as no-leasing areas because they were (1) too large to permit slant drilling or (2) included values that could not be protected if leased. In California, over 334,000 acres were closed to oil and gas leasing by an Interior Secretarial order of January 27, 1953, to protect watershed and natural area values. (Some of these lands may be subject to new wilderness designations.) A similar de facto withdrawal has occurred in Wyoming, where 606,800 acres have been closed to oil and gas leasing since 1947 because of a memorandum from the Secretary of the Interior prohibiting oil and gas leasing north of the 11th Standard Parallel.

Many BLM lands in Wyoming, while not formally withdrawn, are closed to oil and gas leasing by decision of BLM's district managers. The discretion to open these lands lies with each of Wyoming's four district managers. In 1977, the State director called for an inventory of administratively closed areas and a justification for them. Over 800,000 acres were initially identified. By 1978, this acreage was reduced to about 136,000 acres. However, monitoring of this acreage by State office personnel has been discontinued.

Recent figures gathered from each Wyoming district show an increase in this closed acreage. As of April 1982, over 196,500 acres were closed to leasing for a variety of reasons such as the need for the land as an antelope range, protection of steep

slopes, and elk and deer winter ranges. In addition, some lands are in wilderness study areas.

Although national recreation areas were opened to all mineral leasing in regulations promulgated on December 21, 1981, certain parts of these recreation areas have been designated "no leasing" or "excepted areas" because mineral activity has been deemed incompatible with the purpose for which the recreation areas were established. In our four sample States, the acreage closed to leasing within recreation areas was 890,100 acres--872,100 acres in Glen Canyon National Recreation Area, Utah (70 percent of the area), and 18,000 acres in Whiskeytown-Shasta National Recreation Area, California (42 percent of the area).

Designated wilderness and wilderness study areas

Wilderness areas have been highly restricted from mineral access. The Department of the Interior was required under FLPMA to determine wilderness characteristics of BLM land and to make recommendations for wilderness designation to the President in 1991. The Forest Service is also assessing the wilderness suitability of some lands as an outgrowth of its roadless area studies. Both Interior and Forest Service lands under study are managed so as not to impair their suitability for preservation as wilderness. Proposed wilderness areas are closed to mineral exploration and development while they are under congressional consideration.

Forest Service lands identified during the Roadless Area Review and Evaluation (RARE II) studies as having wilderness characteristics were recommended for formal wilderness designation by the prior administration. However, congressional action is required before they can be added to the wilderness system. There are 2 million acres of California Forest Service lands in this category, about 3.1 million acres in Wyoming, 938,000 acres in Utah, and 388,000 acres in Oregon. None of these lands is available for leasing under an agreement between the Interior Secretary and the Congress.

In our sample States, about 18 million acres of Interior or Forest Service land are under wilderness consideration and, therefore, are highly restricted for mineral exploration and development. Further planning areas are lands with potential wilderness characteristics. After further study, these areas may or may not be added to the list of administratively endorsed wilderness lands.

BLM will generally lease wilderness study areas subject to certain stipulations, and mining activity can occur only if no impairment of the surface would result. Approximately 9.2 million acres of California land are in this category, including 2.7 million acres of Forest Service lands under study. In Oregon,

about 2.7 million acres of BLM land and 358,000 acres of Forest Service land are being studied.

Litigation was brought involving approximately 1 million acres of Forest Service land in California identified in the RARE II study as non-wilderness in nature. California sued the Forest Service, claiming that it had not examined the lands' wilderness values. The court ruled that the Forest Service did not have adequate information to classify these lands as non-wilderness and ordered further study. 1/ Pending the outcome of these studies, Forest Service will lease these areas subject to a "no surface occupancy" restriction.

Fish and Wildlife Service Lands

Few wildlife refuges and other Fish and Wildlife Service areas are open to either mining or mineral leasing. Most refuges prohibited mining when they were originally withdrawn. BLM regulations preclude mineral leasing on wildlife refuge lands, except to prevent drainage of oil and gas. The regulations would permit mineral leasing on game ranges and coordination lands as long as BLM, the Fish and Wildlife Service, and the States have agreed on which areas can be leased.

In the four States we visited, we determined that no refuge lands are open to mining and that no mineral leasing has been allowed on refuges, game ranges, or coordination lands. As a result, over 1 million acres of Fish and Wildlife Service lands in California, Oregon, Utah, and Wyoming are closed to mining and mineral leasing.

State selection lands

Utah has approximately 220,000 acres of land closed to mining and mineral leasing because they are contained within applications filed by Utah for Federal lands the State wishes to have transferred back ("in-lieu" selected lands). These lands became segregated from location upon application.

Processing these State applications is being held up by litigation and BLM questions about the lands' value. The "no-mineral leasing" decision is the result of a request by Utah that BLM not lease. Recently, BLM officials have begun to question this decision, stating that the Federal Government has foregone considerable revenue by precluding mineral leasing on these lands. BLM estimates of this lost revenue, principally from filing fees and lease rentals, approximate $12 million. This does not include loss from production royalties on these lands, many of which are in prime oil and gas areas.

1/California v Bergland, 483 F. Supp. 465 (E.D. Cal. 1980).

FERC applications for power projects

Applications for preliminary permits or licenses for hydro-electric power projects have a segregative effect similar to applications for withdrawals discussed above. Section 24 of the Federal Power Act (16 U.S.C. 818) states that:

> "Any lands of the United States included in any proposed project * * * shall from the date of filing of application therefor be reserved from entry, location, or other disposal * * * until otherwise directed by the Commission or by Congress."

Presently, any individual, corporation, State or municipality can apply for a hydroelectric project preliminary permit or license. The acreage withdrawn in these applications for projects could range from a few to thousands of acres and remain withdrawn, even if the application is rejected, unless acted upon by FERC or the Congress.

The Mining Claims Rights Restoration Act of 1955 (30 U.S.C. 621) opened these power site reservations to "* * * location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands * * *." The act did not open lands where a project is operating or being constructed, nor where a prospective licensee holds a permit to examine and survey the lands. In addition, according to BLM withdrawal program officials, the restrictions put on lands where a project is applied for tend to deter mineral industry activity. For example, mining claims located within a powersite classification are there at the claimant's own risk. Any improvements made on the claim do not have to be compensated for if a hydroelectric power project is built on the land.

No complete central records exist identifying the amount of Federal land under application for power projects. About 6,500 applications have been filed since 1920 for non-Federal hydro-electric projects, but not all of these are on Federal lands. As discussed, FERC is attempting to prepare a list of essential project withdrawals and intends to vacate or eliminate those considered obsolete.

FERC has often been late in notifying BLM State offices that certain public lands are subject to a power site reservation. For example, FERC informed the BLM Wyoming withdrawal review program official that, many applications backlogged in FERC headquarters need to be noted on BLM's land records.

FERC and Interior officials agree that the segregative effect of applications for Federal hydroelectric power projects is a problem that must be addressed. Various options are being considered by agency officials such as amending section 24 of the Federal Power Act of 1920 to place a time limit on applications made pursuant to that section.

Other access restrictions

We were unable to definitively identify lands where mineral exploration and development is restricted or prohibited because neither the States nor BLM have central records of such decisions. In our four sample States, a decision not to lease or whether to lease under special stipulations is made at the BLM district or resource area level. To gather a complete picture of the extent of mining or mineral leasing prohibitions, each such area would have to be inventoried. Moreover, some agencies informed us that until an actual lease is applied for, they would not know whether mineral activity would be permitted.

BLM and other agencies, particularly the Forest Service, have environmental assessments and land use plans which identify general types of lands which could be precluded from mineral entry. Acreage estimates are not available, however, to describe the extent of conditions such as geologic hazards, sloping or erosive soils, or endangered species habitats, which would be subject to mineral restrictions.

In California, the absence of environmental assessments in at least one national forest has held up some mineral leasing decisions. While BLM officials do not have exact figures, they believe about 350 oil and gas lease applications are pending in Los Padres National Forest. Some of these applications date back to 1974. BLM has agreed to delay leasing the land until the Forest Service completes an environmental assessment which is due this year. BLM anticipates that the assessment will recommend against leasing some areas of the forest. In effect, no access for leasable mineral development has been granted in this forest by the Forest Service in California due to this lack of decision documentation.

LANDS WITHDRAWN SINCE FLPMA

About 40 million acres have been withdrawn from mining through the withdrawal process established in section 204(c) and (d). Most of these withdrawals have been in Alaska for State and native selections. Since their original withdrawal, most of these lands have become wildlife refuges or transferred to native ownership. Only 718,000 acres have been withdrawn from mining in the lower 48 States.

Little acreage has been withdrawn from mineral leasing since FLPMA's passage because Interior has interpreted FLPMA's definition of withdrawal (section 103 (j)) to exclude withholding lands from mineral leasing. As a result, since 1976 the few withdrawals from mineral leasing that have been processed include (1) a request of the House Interior Committee for the Bob Marshall emergency withdrawal, totaling 1.5 million acres in Montana, and (2) some lands in Alaska withdrawn from mineral leasing in anticipation of transferring title to the land from the Federal Government to the State.

Because of a reluctance to allow agencies to formally withdraw Federal lands from multiple use, especially mineral entry, applications for new Federal agencies' withdrawals have been subjected to a rigorous justification process by BLM. BLM's Assistant Director for Land Resources told us that before a withdrawal request by an agency is approved, the agency must demonstrate that BLM's surface management regulations issued in 1981 do not sufficiently protect the lands, thereby necessitating their withdrawal.

Many withdrawal applications have been pending for long periods without action by BLM. For example, applications have been pending in California since 1955 and in Wyoming since 1957, primarily because until recently, no priority was given to completing them. FLPMA allowed BLM 15 years to complete applications that were pending in 1976, and BLM had planned to use the full 15 years to accomplish this. Meanwhile, the applications have the same effect as an approved withdrawal in denying access for mineral exploration and development.

BLM's withdrawal coordinators in all four States indicated that BLM headquarters is making approval of new withdrawals very difficult. Both the Utah and Wyoming coordinators said that they lack instruction on what is acceptable justification for new withdrawals. The Wyoming coordinator told us that headquarters would probably not approve any new withdrawals if significant mineral deposits are evident.

Problems with requirement for mineral reports for new withdrawals

Confusion exists as to what constitutes an adequate mineral report, required when processing new withdrawals, because of the lack of headquarters guidance. BLM regulations issued in 1981 (43 C.F.R. 2310) require mineral reports for new withdrawals and extensions. However, the regulations do not specify how these assessments are to be done or the extent of information required. Also, BLM's Organic Act Directive 79-28 addresses mineral reporting and the level of effort required, but does not provide detailed instructions.

In addition, the administration's new National Materials and Minerals Program Plan states that strategic and critical minerals impact analyses will be required for some new withdrawals. However, Interior has not developed guidance identifying which agency will perform these assessments or how this requirement will be implemented. Furthermore, in an earlier report, 1/ we recommended that the Secretary define the terms "strategic and

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1/"Actions Needed to Promote a Stable Supply of Strategic and Critical Minerals and Materials," GAO/EMD-82-69, June 3, 1982.

critical" and develop an approach to measure the magnitude of our mineral vulnerability. Based on its lack of guidance on the existing mineral report requirement, we believe that Interior's desire for additional minerals data could create more uncertainty.

Emergency withdrawals made under FLPMA

Under section 204(e) of FLPMA, the Secretary of the Interior shall make an immediate withdrawal whenever he or the House or Senate Interior and Insular Affairs Committee determines that an emergency situation exists. Emergency withdrawals are to be made when "extraordinary measures must be taken to preserve values that would otherwise be lost," 1/ and can last for only 3 years.

Since FLPMA, emergency withdrawals have been made five times--three times at the request of the Secretary of the Interior and twice at the request of the House Interior and Insular Affairs Committee. In all cases, the values to be protected were environmental or archeological. Four of the withdrawals were from mining and other uses under all the general land laws; one was a mineral leasing withdrawal. Emergency withdrawals have involved a total of 111.6 million acres, mostly in Alaska.

Of the five emergency withdrawals since 1976, only one is still in effect. This is a December 1981 decision by the Secretary of the Interior to withdraw 679 acres in Windy Gap, Colorado, to protect significant archeological finds discovered by an archeologist for a Colorado water district.

The most controversial of these emergency withdrawals was a June 1, 1981, withdrawal to protect 1.5 million acres of wilderness in Montana--the Bob Marshall, Scapegoat, and Great Bear Wilderness areas. The House Interior and Insular Affairs Committee requested that the Secretary of the Interior withdraw these areas from disposition under the mineral leasing laws until December 31, 1983. On December 16, 1981, the U.S. District Court of Montana ordered the Secretary to revoke this withdrawal. 2/ The court held that only the Secretary could establish the scope and duration of an emergency withdrawal. The Secretary had meanwhile promised the House Interior Committee and the Senate Energy Committee that no mineral leases would be issued within designated wilderness areas until the end of this congressional session so the lands have remained closed to mineral leasing. Pending legislation could further affect the accessibility of these lands.

1/FLPMA 204(e).

2/Pacific Legal Foundation v Watt, 529 F. Supp. 982 (D. Montana 1981).

CHAPTER 6

CONCLUSIONS, RECOMMENDATIONS, AGENCY COMMENTS, AND OUR EVALUATION

Although BLM has made some progress since 1979 in reviewing withdrawn Federal lands, the results of the program to date have been hampered by (1) a shift in priorities as established in section 204(ℓ) of FLPMA, (2) questionable budget allocations among BLM State offices conducting the review, and (3) unresolved questions facing the final phase of the program. We are concerned that the lack of strong program management and clear guidance on fundamental budgetary and procedural questions threatens the successful completion of the program and makes future program costs impossible to estimate.

By reviewing all BLM lands first, including those lands already open to mineral entry, many lands closed to mineral exploration and development and specified for review by the Congress have not yet been reviewed. Congressional objectives could have been better met by now if BLM had allocated program resources proportionately to those States with the most withdrawn acreage needing review and the best potential for mineral development rather than on the basis of numbers of withdrawal cases to be reviewed. Furthermore, stronger program direction from headquarters regarding mineral reports is needed to expedite completion of required reviews.

The thrust of the program to date has been on quantifiable actions that could demonstrate progress in reviewing numerous withdrawal cases and is, therefore, basically a record clearing exercise. Many of BLM's program progress targets have been relatively easy to meet because they have been set in terms of completion of field action or dependent only on "checking" or "verifying" case status. The progress target is considered to be met even if the case work requires additional review.

The successful and timely completion of the review of other Federal agency withdrawals by 1991 will depend on resolution of a number of problems. This program segment is crucial to meeting the congressional objective of establishing a systematic review of existing land withdrawals. However, without the cooperation of the participating Federal agencies, BLM cannot expect this review segment to be successful. Yet, BLM has done little to assist other agencies in planning for future work and projecting budget needs. Unless Interior seeks program funding for all participating Federal agencies, reimbursing them for their work, the successful and timely completion of the program may be jeopardized. We believe that Interior, as the agency responsible for managing the Federal lands and conducting the review program, should assume responsibility for obtaining all program funding. It is unlikely that the holding agencies will give the withdrawal review

program a high priority when it competes against their own programs for funding in the budgetary process. Furthermore, program expenditures would be difficult to track because they would appear in various agency budgets.

Although we realize that accounting for other Federal agencies' program expenditures would increase Interior's administrative workload, we believe that with tight budgetary controls, it would ensure proper program and financial management.

Passage of an appropriation for fiscal year 1983 would exceed the appropriation authorization ceiling for withdrawal activities in section 204(ℓ)(3) of FLPMA. In this section, the Congress specifically authorized that not more than $10 million be appropriated for completion of the withdrawal review program to Interior and the other participating Federal agencies. BLM believes that by the end of fiscal year 1983, spending for withdrawal review will approach $12.9 million. To date, we could not determine total costs for the program because BLM has charged a variety of activities to the withdrawal review program. BLM did not use available budgetary controls to specifically track program expenditures.

We believe that the $10 million ceiling in FLPMA should be amended and that subsequent funding for the program be through line item appropriations. A line item appropriation for withdrawal review would be an effective method for controlling and accounting for program expenditures.

The Congress specifically excluded the bulk of Federal withdrawals from BLM's review because it already had oversight in the establishment and management of many of these areas. As a result, these withdrawn lands will remain closed to some uses, including mineral exploration and development. In addition, Interior is not reviewing management decisions which informally withdraw lands from mineral entry without a formal withdrawal. No central records of such restrictions exist. Despite the recommendations in our previous reports, we see no evidence that Interior is attempting to define the extent of this problem or establish criteria for managers to use when limiting access to lands for mineral entry. Because we have identified the problem of "de facto" withdrawals again in this review, we strongly urge Interior to act on the recommendations of our earlier report on this subject.

"De facto" withdrawals of Federal land can occur for a variety of reasons, including the submission of an application for a formal withdrawal and a hydroelectric power project. FLPMA recognizes the restrictive effect of withdrawal applications and limits this effect to a maximum of 15 years for those applications filed prior to FLPMA and 2 years for those filed since. There are no time limits, however, on the period for which a hydroelectric power project application can restrict lands to mineral entry. Even if the application is rejected, the land remains withdrawn unless and until acted on by FERC or the Congress. We recognize that some reasonable period is necessary to evaluate the powersite potential

of lands applied for under section 24 of the Federal Power Act. However, an indefinite withdrawal of these lands because of lengthy administrative processing seems contrary to the policy of FLPMA that public lands not be restricted from multiple use.

FLPMA established justification and congressional notification requirements for new withdrawals of over 5,000 acres in order to make public lands set aside more difficult to authorize. In establishing new withdrawals, BLM has scrutinized agency requests and attempted to assure that a formal withdrawal is really necessary. However, BLM has not developed minimal standards or guidance for what constitutes an adequate mineral report under section 204(c)(12) of FLPMA, which has resulted in confusion among BLM staff who process new withdrawals.

RECOMMENDATIONS TO THE CONGRESS

The significance of the remaining program objectives and the time left to meet them places a premium on careful budget management. Therefore, when the Congress appropriates additional funding for the completion of the withdrawal review program mandated by section 204(ℓ) of FLPMA, we recommend that it:

--Amend section 204(ℓ)(3) of FLPMA (43 U.S.C. 1214), deleting the words "$10 million" and substituting a revised appropriation ceiling, based on refined Interior budget estimates. (See app. IV.)

--Enact a line item appropriation for withdrawal review activities to be appropriated to Interior for the use of all Federal agencies participating in the withdrawal review program.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

To ensure the successful completion of the program and maintain the proper financial management controls over program operations, we recommend that the Secretary direct BLM to:

--Allocate program resources proportionately for the remainder of the withdrawal review program to States with the most acreage withdrawn and the best potential for mineral development.

--Use special project codes to track activities authorized under section 204(ℓ) of FLPMA to properly account for program expenditures.

--Develop new budget estimates for the completion of the withdrawal review program based only on activities authorized under section 204(ℓ) of FLPMA, and submit this estimate to the Congress as a new appropriation ceiling.

--Seek program funding for the participating Federal land-holding agencies through Interior's budgetary process and reimburse these agencies for their work related to the program.

--Work with holding agency officials, to determine which lands are closed to mineral exploration and development and allocate program resources to ensure a review of these lands first.

To avoid the uncertainty which now exists regarding the requirements for mineral reports under the review program and for new withdrawals, and to ensure the most efficient application of this requirement in line with organizational recommendations of three previous GAO reports, (see footnote on page 18) we recommend that the Secretary:

--Establish minimum standards for mineral reports required under the review program and for new withdrawal applications.

--Consolidate the responsibilities for performing and evaluating these mineral reports under one Assistant Secretary.

Because "de facto" withdrawals of Federal land continue to be a problem, we urge the Secretary to implement the recommendations from our February 11, 1982, report. 1/ We further recommend that the Secretary:

--Establish criteria on which management decisions which preclude mineral leasing or mining on Federal lands must be based. The Secretary should also require the Bureau of Land Management to maintain records of these decisions adequate enough to permit periodic congressional oversight.

--Establish standards and criteria for the use of restrictive stipulation on oil and gas leases, such as surface disturbance and "no surface occupancy" restrictions. Leasable lands should then be inventoried to determine the extent of use of such stipulations and to verify if the stipulation use meets the standards and criteria. Stipulation uses which are determined to be unjustified should be removed.

1/"Actions Needed to Increase Federal Onshore Oil and Gas Exploration and Development," EMD-81-40, Feb. 11, 1981.

RECOMMENDATION TO FERC

To ensure that additional Federal land is not closed for an indefinite period of time by the filing of an application for a hydroelectric power project to FERC, we recommend that the Federal Energy Regulatory Commission

--establish a policy to remove the segregative effect on Federal lands of a hydroelectric power project application when consideration of the application is terminated without the issuance of a license.

AGENCY COMMENTS AND OUR EVALUATION

Comments on a draft of this report were received from the Department of the Interior (app. II) and the Federal Energy Regulatory Commission (app. III) and are summarized below along with our response.

Department of the Interior

Interior officials generally disagreed with our recommendations designed to improve control of program expenditures and management. Their response further justifies their actions regarding program management but offers no new information. Accordingly, Interior's response did not change our findings, conclusions, or recommendations.

In response to our discussion in chapter 2, regarding the change in the Department's program priorities, Interior states that (1) a minor shift in priorities was required to facilitate overall program implementation and best utilize available funding and (2) program implementation would have been delayed if the original priorities were followed. Furthermore, Interior states that changing review priorities was necessary to sequence the work from simple to complex because of newly assigned employees. Interior believes its decision regarding review priorities enhanced program progress, rapidly eliminated many mineral withdrawals, and allowed time for other Federal agencies to organize their programs.

As explained in chapter 2, BLM's original priorities were in line with the review objectives established by the Congress. Understandably, shifts or modifications in the priorities may have been necessary to facilitate program implementation. However, we believe Interior made a major change in program direction in March 1981, which went beyond the program called for in section 204(ℓ) of FLPMA. As explained on pages 6 through 11, the withdrawal review program was to concentrate on certain specified lands.

Clearly, withdrawals from mineral entry were to receive special emphasis because the only BLM and Forest Service withdrawals specified for review were from mineral exploration and development. These withdrawals along with other Federal agency withdrawals, most or all of which are closed to mineral entry, could and should have been identified and reviewed on a priority basis. Interior's decision to include and fund its activities connected with processing outstanding land relinquishments and reviewing BLM land classifications, complicate measuring program progress in terms of congressional objectives. Instead of managing these activities separately, BLM officials included them as part of the withdrawal review program because they realized that quick progress could be achieved and reported in terminating restricted acreage amounts. Although this may have seemed to be a proper management decision to BLM program officials at the time, it may affect the successful completion of the program by 1991 if present program funding problems remain unresolved. As a result, 6 years after FLPMA's enactment, over one-half of the land specified for review in section 204(*l*) of FLPMA has still not been reviewed.

Interior believes that our recommendation that program resources be allocated proportionately to those States identified as having the most withdrawn acreage needing review and the best potential for mineral development is flawed because the inventory data identifying withdrawn acreage are inaccurate and could be misleading. Interior points out that of the 14 million acres identified as withdrawn in Wyoming and needing review, only 25,000 acres are specifically withdrawn from mineral leasing. Furthermore, Interior contends that the level of work required to review withdrawal cases is another determinant in resource allocation, explaining that 10 acres inside the Las Vegas city limits could be more difficult to review, because of its complexity, than 1,000 acres of prairie or desert land. Finally, Interior points out that the number of individual withdrawals and staff expertise must also be considered when allocating program resources.

We still believe that since the basic purpose of the program is to review, with the intent of opening specified lands withdrawn from mineral entry, program resources should be allocated in the most efficient and effective manner. Although we acknowledge the weaknesses with BLM's inventory data, they remain the best available information regarding withdrawn lands and give program managers an indication of where resources should be allocated. Interior is correct in noting that out of Wyoming's 14 million withdrawn acres, only 25,000 acres are specifically withdrawn from mineral leasing. However, the Department fails to note that the same inventory data show that in Wyoming, about 6.7 million acres are withdrawn from mineral location under the Mining Law of 1872, and about 4 million acres are withdrawn from both the mining and mineral leasing laws. These data show that lands opened to one form of mineral entry, such as mineral leasing, can be closed to another.

We acknowledge that program allocations take into account management considerations other than acreage amounts. However, program funding was based primarily on the number of withdrawal cases to be reviewed and the priority each BLM State Director placed on the program rather than any analysis of case difficulty or staff expertise. We note with interest Interior's example of the difficulty posed by a 10-acre withdrawal inside the Las Vegas city limits as opposed to a 1,000-acre withdrawal of prairie or desert land. We believe program managers should have prioritized those lands to be reviewed based on congressional objectives. If the withdrawal of 10 acres within the Las Vegas city limits did not meet these objectives, or was in an area of the city which would make mineral exploration and development unlikely, it should not have been reviewed, or designated as a low-priority review.

Seemingly, more potential exists for mineral exploration and development on 1,000 acres of praire or desert land than within the Las Vegas city limits. We discuss in detail how program resources were allocated on pages 11 and 12.

Interior disagrees with our recommendation that it seek program funding for all Federal agencies participating in the withdrawal review program. Interior states that its decision to allow all participating Federal agencies to seek their own funding is managerially superior and less costly. Interior believes that as long as it is responsible for program fund acquisition and is unsuccessful, participating agencies have an excuse for doing nothing.

We believe that resolving which agency should obtain program funding is now at an impasse. Unless Interior takes control of program management and seeks all program funding, the timely and successful completion of the final program segment is jeopardized. As discussed in detail in chapter 4, all of the officials of the participating Federal agencies we spoke with expressed doubt that the withdrawal review program will receive priority in the budgetary process when competing against their agency's own programs for funding. Furthermore, we found no evidence to support Interior's contention that its funding decision would be managerially superior and less costly. In fact, Interior officials told us that the main basis for the decision was to avoid further administrative work. Finally, we agree with Interior that its inability to obtain program funding would allow other participating Federal agencies an excuse for doing nothing. However, any funding option is dependent upon the availability of program resources. What we are proposing, assuming available funding, is a better means of financial and accounting control for program expenditures.

Interior generally agreed with our analysis regarding the confusion surrounding the program requirements for mineral reports and the requirement for mineral reports for new withdrawals. Interior's response notes that BLM is continuing efforts to upgrade mineral reports in general and hopes to have guidance available to BLM field offices no later than calendar year 1983. The guidance will include provisions for conducting, reviewing, and approving mineral reports. Interior further notes that its proposed new guidance will also address our concerns regarding the new requirement for strategic and critical minerals impact statements.

While we acknowledge BLM's efforts to develop standards for mineral reports, we must point out that such standards to be useful should be developed before the next segment of the withdrawal review program. We urge Interior to ensure development of this guidance so that it can be of timely use to program officials. Similar guidance is also needed for mineral reports required to support new withdrawal applications.

Interior stated that the question of which agency is responsible for doing the mineral reports is of limited relevance as long as the report meets BLM standards. In addition, Interior believes our recommendation to consolidate the responsibilities for performing and evaluating the mineral reports under one Assistant Secretary is ambiguous because our draft report does not offer compelling evidence to support such a conclusion. Furthermore, Interior states that responsibilities for performing mineral reports cannot be located under one Assistant Secretary within Interior if the other Federal agencies participating in the review are allowed to prepare their own reports.

We believe Interior's response evades recognition of the problems we identified. We reemphasize that confusion exists among BLM program officials now responsible for preparing the reports as well as officials of other agencies who will be participating in the review program. We continue to believe that only one agency should be responsible for this function. A clarification of which agency is responsible for maintaining the expertise for preparation and review of mineral resource evaluations is necessary to provide consistency and control costs.

Our recommendation to the Secretary of the Interior to consolidate the responsibilities for performing and evaluating mineral reports under one Assistant Secretary draws from analysis and recommendations of three of our previous reports on the subject of Federal minerals management. (See footnote on page 18.) These reports note that minerals management functions within Interior are fragmented among agencies, with little or no effective coordination. For example, several agencies within Interior, including BLM, the Bureau of Mines, the Minerals Management Service, and the U.S. Geological Survey,

could be requested to perform mineral reports with little or no guidance as to the type of information required or the potential costs involved. As noted on page 18, BLM officials estimated that the cost of mineral reports could range from $200 to $200,000, depending on which agency performs it and what types of information are analyzed. We believe assignment of this mineral management function to a single Assistant Secretary is consistent with our previous work in the area and would alleviate confusion regarding requirements for minerals reports and costs. We also believe that such an action would be generally consistent with the recent mineral management reorganization actions within Interior.

Finally, Interior did not address the problems we identified regarding the continuing withdrawal of public lands through informal or administrative means. As noted on page 32, Interior officials admit that if "de facto" withdrawals are not controlled, the problem will intensify, more Federal land will be informally removed from mineral entry, and nobody will be aware of the amount of Federal land that is really inaccessible. We will continue to urge the Secretary to implement the recommendations of this and other previous GAO reports on the subject.

FEDERAL ENERGY REGULATORY COMMISSION

FERC is continuing to study our recommendation to ensure that additional Federal land is not indefinitely withdrawn by the application for a hydroelectric power project, although it expressed some difficulty in implementing it.

According to FERC's Executive Director, the termination of a proceeding for a hydroelectric power project license does not necessarily mean that the site and the lands have little or no power value. Even though a site may have considerable value for power purposes, an application may not lead to development of a site for a number of reasons. FERC continues that if the power withdrawal has been removed and the lands are available for uses that are incompatible with power development, the power value of the lands can be destroyed.

We acknowledge that there are circumstances which necessitate the continuation of a withdrawal. However, our recommendation that a policy be established to remove unnecessary withdrawals allows FERC the latitude to develop guidance and criteria which could allow the withdrawals to continue in special circumstances such as when the proposed power site has considerable value for power purposes.

FERC's response also notes the uncertainty of whether FLPMA's section 204(ℓ) review applies to withdrawals covered by section 24 of the Federal Power Act. However, FERC has proposed to review hydroelectric power project withdrawals under section 24 and eliminate those withdrawals not considered necessary for hydropower purposes.

Finally, FERC points out that many Federal lands subject to hydroelectric power project withdrawals are open to mineral entry. We are aware of this matter and have discussed it in detail on page 36.

Land Withdrawals to Be Reviewed Under 204(ℓ) as of June 30, 1981 (note a)
(In Gross Acreage) (note b)

	Number of withdrawals	Acreage of withdrawn lands	Closed to mining location (only)	Closed to mineral leasing (only)	Closed to mining location and mineral leasing	Closed to nonmineral uses (surface only)
Arizona	512	6,855,831	1,985,743	11,485	4,555,651	302,952
California	1,100	6,629,698	3,859,879	5,783	1,540,575	1,223,467
Colorado	419	4,031,042	3,689,061	0	3,689,061	439,507
Idaho	679	1,770,000	647,000	0	620,000	503,000
Montana	612	12,401,759	4,079,889	0	44,361	7,930,177
Nevada	165	2,244,813	810,280	0	1,434,533	2,244,813
New Mexico	236	9,804,554	8,270,908	0	1,515,887	17,759
Oregon	790	1,672,574	928,527	0	63,088	680,959
Utah	478	11,246,796	4,837,602	0	1,845,009	4,564,185
Wyoming	458	14,315,901	6,724,925	25,646	4,270,038	3,295,292
Washington	526	920,412	515,259	0	109,385	295,768
Total	5,975	71,893,380	36,349,073	42,914	19,687,588	21,497,879

a/These acreage figures represent the best available baseline data BLM has compiled to date on land withdrawals because land classifications are not included in these figures as they were in the initial inventory data.

b/The acreage figures are "gross," meaning that they contain some acreage which may have been double counted as a result of overlapping withdrawals.

APPENDIX I

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 2 1982

Mr. J. Dexter Peach
Director, Energy and Minerals Division
U.S. General Accounting Office
Washington, D.C. 20548

Re: Interior's Program to Review Withdrawn Federal Lands

Dear Mr. Peach:

Our comments on the subject report address four major points: 1) apparent shift in program priorities, 2) allocation of funding within BLM, 3) funding for review by other Federal agencies, and 4) minerals issues.

1. Apparent shift in program priorities.

RESPONSE: The report identifies the original priorities of the withdrawal review program as: 1) review of "Overthrust Belt," 2) review of mining and mineral leasing withdrawals known to contain minerals, 3) review of mining and mineral leasing withdrawals suspected of containing minerals, 4) review of remaining mining and mineral leasing withdrawals, and 5) review of all other withdrawals. The report further notes that a change in priorities occurred which required that BLM withdrawals be reviewed first, followed by a review of those held by other Federal agencies. A minor shift in priorities was required to facilitate overall program implementation and best utilize available funding.

o Review of "Overthrust Belt" withdrawals was, in fact, given heavy emphasis and completed first.

o Review of mining and mineral leasing withdrawals known to contain or suspected of containing minerals could have delayed the program up to a year or more while requisite mineral intelligence was gathered and synthesized from other agencies and industry/private nominations. Only now is the Department planning to call for nominations. Moreover, of the millions of acres of withdrawals existing then (and now), relatively few closed lands to mineral leasing. As an alternative and immediate target of opportunity for substantial progress in withdrawal revocations, the field was directed to attack a backlog of approximately 120 pre-FLPMA, other agency withdrawal relinquishments encompassing some 2,500,000 acres -- essentially all of which closed lands to mining.

See GAO note, page 54.

o The decision to attack relinquishments first and BLM withdrawals next recognized a critical need for segmenting and sequencing work -- from simple to complex -- for substantial numbers of newly assigned employees. It reflected management decisions to: (a) not delay withdrawal review/revocation efforts for a year or more while developing a definitive inventory of net acreages withdrawn; and (b) get rid of as many mineral withdrawals as possible (hundreds) as rapidly as possible. We believe such to be consonant with the spirit, if not the precise letter, of the "minerals first" priorities established, as well as a logical and compelling approach to withdrawal review considering program experience levels in many of our field personnel. Interest by industry and individuals in lands opened to mining as a result of our 1981-82 efforts has revealed that some highly mineralized areas were, in fact, impacted.

o The decision to review most other-agency withdrawals last also reflects the realities of attainment. It provided what BLM-DOI management considered a reasonable time for other agencies to organize their withdrawal review programs and seek funding. Perhaps more importantly, it provided time for the Secretary of the Interior to exert influence through the Executive Branch upon recalcitrant agencies.

2. Allocation of funding within BLM.

RESPONSE: The report recommends allocating withdrawal review funds to BLM State Offices in proportion to the number of acres to be reviewed, regardless of State Office budget requests or other factors, such as numbers of withdrawals. The concept that funds and workmonths should be allocated principally on the basis of acreage withdrawn is flawed at best. The report recommends, for example, in light of the "push" for energy development, i.e., mineral leasing and development, that Wyoming and Utah should have been allocated substantial additional resources from the outset.

Some 14 million acres of withdrawals in Wyoming are pointed up in the report to support the recommendation. Further examination of these figures would have revealed that, of the 14 million acres: (a) some 4 million acres involve oil shale withdrawals which have been and are open to mineral leasing, and (b) only about 25,000 acres are specifically withdrawn from mineral leasing. About 5¼ million acres are so-called "Pickett Act" withdrawals which are open to mineral leasing and metalliferous mining location. In the context of the foregoing, it seems clear that gross withdrawal acreages alone have limited meaning. They can be very misleading if they imply an all-encompassing "lock-up" of mineral resources. Difficulty of withdrawal review is another determinant in resource allocation. This is to say that 10 acres inside the city limits of Las Vegas inherently will pose workload demands that meet or exceed those of a thousand acres of prairie or desert. The same can be said of very small acreages in highly mineralized areas, e.g., the need for environmental assessments. Too, a program manager

must weigh relative field unit competency, associated confidence levels, and productivity potentials in allocating resources. Subsequently, as organizational adjustments, training, and experience "take hold," added funding can be and is provided. In short, gross acreage withdrawn is but one of several bases for allocation of funds, and often not a key consideration. Number of individual withdrawals as well as complexity of cases, withdrawal nature, and staff expertise must be examined and weighed heavily.

3. Funding for review by other Federal agencies.

RESPONSE: The report recommends that DOI seek program funding through its own budgetary process and reimburse other Federal agencies for work related to the withdrawal review program. This was one of the alternatives presented to Secretary Watt over a year ago. His decision is reflected in his letter of October 5, 1981, advising holding agencies to seek their own funding, with DOI alerting OMB to the situation and offering to work with OMB to support funding needs of those agencies. In a follow-up letter of July 12, 1982, Secretary Watt again offered assistance in working with the agencies to obtain funding. We believe this course to be managerially superior and less costly overall than that recommended in the report.

Fund seeking/reimbursement by DOI also opens the door to what might be characterized as agency "cop out." So long as Interior is responsible for fund acquisition and is unsuccessful, an agency has an excuse for doing nothing.

4. Minerals issues.

RESPONSE: The report seems to emphasize the significance of the mineral report guidelines or standards (discussed in the section beginning on page 18). We generally agree with your analysis. These reports are prepared by geologists who are accustomed to relate intensity of research and levels of data to the significance of the issue. Larger and more complex withdrawal actions automatically receive more comprehensive attention by the geologists in the field. As a part of continuing Bureau efforts aimed at upgrading mineral reports, the BLM has had a program underway since last year to improve mineral assessment guidance to the field generally. We expect to have this in place no later than early calendar year 1983. It will include provisions for conducting the mineral assessments as well as their review and approval.

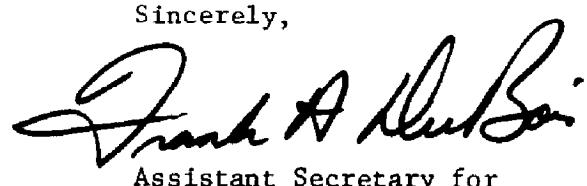
The question of which agency is responsible for doing an assessment is really a funding issue, i.e., once funds are available, our prime consideration is that reports meet our standards. It is condered of limited relevance who performs the work (the holding agency staff, contracts to private firms by the holding agency, or GS/BM if the holding agency prefers). Alternatively, BLM staff geologists may perform the work on a reimbursable basis. Thus, if a holding agency has its own funds, it can select whom it wants to do the work and report.

With regard to strategic/critical minerals, GAO should note that these are defined in the Strategic and Critical Materials Stockpiling Act, 50 U.S.C. 98, as "materials that (a) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (b) are not found or produced in the United States in sufficient quantities to meet such need." In BLM's revised mineral assessment guidelines, such mineral will be explicitly addressed in mineral assessments of withdrawal activities.

Finally, on page 43, there is a recommendation to "consolidate the responsibilities for performing and evaluating these mineral reports under one Assistant Secretary." This recommendation is considered ambiguous. This is to say that we do not find compelling evidence in the document that would lead to or support this conclusion. Moreover, responsibility for performing mineral reports cannot be located in one Assistant Secretary if holding agencies are to be allowed to prepare their own reports (to BLM standards, of course). Our position is that reports should be done in the most cost effective manner. If this can be accomplished via reports prepared by other agencies, we have no objection. In addition, the responsibility for evaluating such reports is already with the Assistant Secretary, Land and Water Resources, to the extent that it is part of this office's withdrawal review responsibility.

We appreciate this opportunity to review this draft report and hope our comments will prove useful to GAO in preparing its final report.

Sincerely,



ACTING Assistant Secretary for
Land and Water Resources

GAO note: Page references in this appendix which referred to the draft report were changed to reflect their position in this final report.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON 20426

AUG 05 1982

Mr. J. Dexter Peach
Director, Energy and Minerals Division
General Accounting Office
Washington, D. C. 20548

Dear Mr. Peach:

This responds to your July 7, 1982 request for comments on your draft report, "Interior's Program to Review Withdrawn Federal Lands -- Uncertain Progress and Results." Our comments are presented first in summary, and a somewhat fuller discussion follows.

Summary of Comments

1. GAO's recommendation to the FERC is that the Commission establish a "policy to remove immediately the segregative effect on Federal lands of a hydroelectric power site application when consideration of the application is terminated without the issuance of a license." The difficulty with this blanket approach is that some of the lands involved have considerable power value and should be retained in a withdrawn status to protect future power development. The Commission has proposed, however, to develop an index of essential project withdrawals and to vacate those project withdrawals that are not considered necessary for power purposes. The Commission staff is examining GAO's recommendation further.

2. It is doubtful that the withdrawal review provided for by Section 204 of the Federal Land Policy and Management Act of 1976 (FLPMA) applies to the power withdrawals covered by Section 24 of the Federal Power Act (FPA). Regardless of that, however, the Commission as noted above has proposed under Section 24 of the FPA to review power project withdrawals and vacate those project withdrawals that are not considered necessary.

3. Many of the Federal lands subject to hydropower withdrawals are open to mining entry and mineral leasing.

Discussion

1. GAO's recommendation -- that the Commission establish a policy to remove immediately the segregative effect on Federal

lands of a hydropower application when consideration of the application is terminated without issuance of a license -- presents some difficulty if implemented as a blanket approach. This is so because termination of a proceeding without issuance of a license does not necessarily mean that the site and the lands have little or no power value. Even though a site may have considerable value for power purposes, there may be a number of other reasons why an application does not lead to development of a site. Examples are: delays or other problems in securing needed approvals from other agencies; difficulties in securing financing; and availability of more attractive sites to the potential developer. It has been our experience that a site that is not developed by one applicant is frequently developed pursuant to a subsequent application. If the power withdrawal has been removed and the lands are made available for uses that are incompatible with power development, the power value of the lands could be destroyed. 1/

Accordingly, as discussed in the GAO report, the Commission has proposed to develop an index of essential power project withdrawals and vacate those project withdrawals that are not considered necessary, provided requisite funding is included in the FERC budget. The Commission staff is coordinating this review with the Bureau of Land Management.

2. There is doubt that the withdrawal review provided by Section 204 of the FLPMA applies to the power withdrawals covered by Section 24 of the FPA. For various reasons the intent of subsection 204(l), which provides for review of certain withdrawals existing on the date of approval of FLPMA, 2/ is unclear. While FLPMA specifically repealed a number of statutes and parts of statutes, the FPA was not listed among those. The relationship between Section 24 of the FPA and subsection 204 (l) of FLPMA remains uncertain. Nonetheless, as discussed above, the Commission has proposed to review hydropower project withdrawals under

1/ The existence of a power withdrawal does not necessarily preclude the use of the affected lands for other purposes, as will be discussed below. The other uses may be compatible. Or, even if the other uses would preclude a subsequent power use, the Commission possibly may find the other uses to be superior, and thus that the other uses should be permitted.

2/ Subsection 204(f) of FLPMA provides for review of withdrawals made for a specific period of time. Power withdrawals under Section 24 of the FPA do not fit in this category, however, as they are not for a specified period.

Section 24 of the FPA and vacate those withdrawals that are not considered necessary for hydropower purposes.

3. Many of the Federal lands subject to hydropower withdrawals are open to mining entry and mineral leasing. The Mining Claims Restoration Act of 1955, 30 U.S.C. §621, opened lands withdrawn for power development to mining entry, except for lands (1) that are included in any project operating or being constructed under a license or permit issued under the FPA or other act of Congress, or (2) that are under examination and survey by a prospective licensee of the FERC if such prospective licensee holds an uncancelled preliminary permit under the FPA authorizing him to conduct such examination and survey with respect to the lands, and the permit has not been renewed more than once. Thus lands withdrawn for power purposes, other than lands covered by the two provisos, clearly are open to mineral entry. As to lands covered by the two provisos, any restoration would be handled on a case-by-case basis.

With respect to leasing, the Commission has not objected to various leases, some of which cover lands within the boundaries of licensed hydropower projects. Stipulations are added as needed to protect the power use, and particular care must be taken to protect the safety of the project dams and other structures.

We appreciate the opportunity to provide comments on the draft. If you should have any questions respecting our comments, please do not hesitate to let me know.

Sincerely,

William G. McDonald
Executive Director

APPENDIX IV

RECOMMENDED LEGISLATIVE CHANGE TO SECTION 204(ℓ)(3) OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

The recommended legislation could be enacted in the following manner:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 204(ℓ)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(ℓ)(3) is amended by striking out $10,000,000 and inserting in lieu thereof [$_____].

(008455)

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