

# United States Senate

July 16, 2024

The Honorable Tracy Stone-Manning  
Director, Bureau of Land Management  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Director Stone-Manning:

We write to express our disappointment with the Bureau of Land Management's (BLM) draft Mining Performance Metrics, which the agency is required to develop, publish, and implement pursuant to section 40206 of the Infrastructure Investment and Jobs Act (IIJA).<sup>1</sup> Despite being more than a year late, BLM has put minimal effort into its draft metrics, choosing instead to ignore its statutory mandate to improve the broken federal permitting process.

BLM observes that it is "responsible for the timely and efficient permitting of appropriate mineral exploration and development work" across "roughly 245 million acres of public land and 700 million acres of federal mineral estate." Yet, despite that mission, the agency published only a short webpage with just three draft performance metrics: the "percentage of operators that engage in pre-plan submittal coordination with the BLM;" the "percentage of milestones met from the mining pre-plan coordination agreements;" and the "median time to complete National Environmental Protection Act (NEPA) reviews for mining plans."

We find BLM's proposed suggestions to be woefully insufficient to support any meaningful progress toward more efficient permitting. In fact, BLM's first and second proposed metrics fall outside of the established permitting process and continue the agency's efforts to increase the burdens of project applicants before they can enter it. BLM cannot frontload the pre-permitting process, extending the time and cost burdens for affected stakeholders, and then claim that it has expedited the permitting process. This is the definition of shifting, not shortening, the permitting process and deliberately disregards BLM's statutory mandate.

At the same time, all three of BLM's proposed metrics call for the gathering and publication of static data. This does not support the statute's requirement that BLM use data and metrics to minimize agency delays and improve the performance of federal entities and personnel responsible for the consideration of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on federal land.

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<sup>1</sup> <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>

BLM's metrics fall well short of requirements of the IJJA. Congress directed the agency, in coordination with the U.S. Forest Service, to develop metrics to be used "for evaluating the progress made by the executive branch to expedite the permitting of activities that will increase exploration for, and development of, domestic critical minerals, while maintaining environmental standards." BLM has instead chosen to document its current deficiencies rather than outlining any substantive action to address them. We would note that BLM's draft metrics make no mention of accelerating federal permitting in any way.

The Department's Inspector General (IG) has already found BLM's implementation of section 40206 to be deficient. In a report issued on March 29, 2024, the IG found that BLM did not meet the statutory deadline for the development of its performance metrics. It also determined that Congress and relevant federal agencies may not have all the information needed to determine whether, or how, to modify mining laws, regulations, and the permitting process.<sup>2</sup> While the IG was unable to review BLM's draft measures, there is no question they are inconsistent with federal law and fail to reflect its plain requirements.

We urge BLM to expeditiously revise its draft metrics to comply with the clear directive and intent of section 40206, which is to improve the agency's permitting performance. BLM can collect and publish data, but the most important step is for the agency to then do something meaningful with it. BLM cannot simply measure and report its performance; the agency must also actively seek to improve it by setting and meeting explicit goals with clear targets.

We must have access to critical minerals on federal lands. The Biden administration's own policies are driving up demand for minerals while simultaneously raising the odds of shortages. A secure domestic supply is essential for our economic competitiveness, national security, and global leadership on a range of technologies. BLM's failure to address permitting delays adds to the price disparity between U.S. and foreign minerals, enabling and incentivizing mineral sourcing based solely on price and availability—without any regard for the human rights and environmental atrocities that occur in many foreign countries upon which we now rely.

Rather than perpetuating the status quo, we urge BLM to:

- Develop useful performance metrics that will expedite the federal permitting process, as directed by section 40206 of the IJJA.
- Consistent with the requirements of section 40206 to provide "public notice and an opportunity to comment," publish the revised metrics in the Federal Register, and make public all comments received by the agency.
- Brief relevant committees of jurisdiction in Congress every 30 days on progress made to revise the draft metrics and to fully implement the requirements of section 40206.

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<sup>2</sup> U.S. Department of the Interior Inspector General Report, *The U.S. Department of the Interior Should Comply with Requirements in Infrastructure Investment and Jobs Act Section 40206, "Critical Minerals Supply Chains and Reliability."* March 29, 2024. [https://www.doioig.gov/sites/default/files/2021-migration/FinalInspectionReport\\_CriticalMineralsMining\\_Public.pdf](https://www.doioig.gov/sites/default/files/2021-migration/FinalInspectionReport_CriticalMineralsMining_Public.pdf)

- Provide regular updates on any barriers to meeting these requirements, including specific technological issues, staffing constraints, or other issues.

We appreciate your attention to this request and look forward to your prompt response.

Sincerely,



Lisa Murkowski  
United States Senator



James E. Risch  
United States Senator



Joe Manchin III  
United States Senator



Dan Sullivan  
United States Senator



John Barrasso, M.D.  
United States Senator