



Talking Points



USFS Mineral and Public Lands Withdrawal Process The Northern Counties Land Use Coordinating Board

In December 2016, the U.S. Forest Service (USFS) requested that the Department of Interior withdraw 234,328 acres of public lands and minerals from multiple and beneficial use in Cook, Lake and St. Louis Counties, Minnesota. The USFS withdrawal application,¹ filed shortly after the same agencies concluded minerals exploration *could* be undertaken in manner protective of the human and natural environments, represents a complete reversal of public lands policy.

Starting February 2017, The Northern Counties Land Use Coordinating Board (NCLUCB) contracted Stillwater Technical Solutions (STS) to review the administrative record and assess the proposed withdrawal in the context of the history of the Superior National Forest, applicable land use statutes, agency procedural requirements, and federal responsibilities to local governments.

Three documents were generated as part of that effort. The first report outlines procedural flaws with the USFS application and public notification process;² the second details scoping alternatives by three local governments that must be incorporated into any legitimate NEPA Environmental Impact Statement (EIS) process;³ and the third identifies profound conflicts between USFS acting as both an advocate for the withdrawal and gatekeeper of the EIS process.⁴

The USFS withdrawal application contains no supporting data, presupposes organic authority not possessed by USFS, creates geopolitical conflicts with a congressionally-established boundary,⁵ lacks required reviews by affected federal and state agencies, and does not contain evidence of FLPMA-required, consistency or pre-consultation contacts between federal agencies and local governments. The proposal also raises fundamental questions as to how 234,328 acres of public lands can be sequestered for a two-year period based upon a six-page application that lacks documentation, scientific information, or other evidence of issues it purports to resolve.

For purposes of participation in the NEPA EIS process, local governments are defined in the CEQ regulations as having federal agency status.⁶ This distinction provides NCLUCB and its member counties administrative opportunities to petition the agencies for redress of the far-reaching and glaring problems associated with the USFS withdrawal application.

For purposes of the NEPA EIS process, NCLUCB has requested the secretaries of Interior and Agriculture to assign BLM as the lead agency for preparation of the second EIS.⁷ NCLUCB has requested a response to this action from the Secretary of Interior by October 27, 2017.⁸

In the event of an unsatisfactory decision or non-response by the secretaries of Interior or Agriculture, additional administrative remedies available to NCLUCB, representing local governments, include a filing of a petition with the CEQ or a more formal, pre-decision referral to the Council of proposed federal actions determined to be environmentally unsatisfactory.⁹

Because the CEQ regulations are administered by executive branch of the United States, this approach — as and if necessary — elevates NCLUCB's concerns to the Cabinet level within the White House, beyond the direct purview of the agencies.

¹ [Application for Withdrawal, Superior National Forest, Cook, Lake and Saint Louis Counties, Minnesota](#). Kathleen Atkinson, Regional Forester. December 14, 2016.

² [Notification of Procedural and Statutory Deficiencies: Request for Cancellation of Withdrawal Application and Immediate Termination of Land Segregation](#). Stillwater Technical Solutions. Comments to record on April 17, 2017.

³ [Comments and Two Alternatives For NEPA Scoping and EIS Analysis](#). Filing to public record by the Northern Counties Land Use Coordinating Board. FR Vol 82., No. 9 and FR Vol 82, No. 70.

⁴ [Conflicts and Solutions in Federal Land and Natural Resource Decision-making](#). Stillwater Technical Solutions. September, 2017.

⁵ [Pub. L. 95-495, October 21, 1978](#).

⁶ [40 CFR §1508.12](#)

⁷ [40 CFR §1501.5\(c\), \(d\)](#).

⁸ Correspondence: NCLUCB Chairman R. Sve to Department of Interior Secretary Ryan Zinke. September 27, 2017 cover letter to the Conflicts and Solutions in Federal Land and Natural Resource Decision-making package.

⁹ [40 CFR §1504](#).