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# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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February 1, 2022

The Honorable Deb Haaland  
Secretary  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Secretary Haaland,

We write to express our strong opposition to the United States Geological Survey's (USGS) recent proposal to remove helium and uranium from the list of critical minerals. USGS has proposed to exclude helium and uranium from its list of critical minerals on the basis of factors that are not set forth in the Energy Act of 2020. By doing so, USGS has unjustifiably narrowed the criteria for minerals to qualify as "critical minerals." At the same time, USGS ignored factors that the Energy Act explicitly instructs it to consider. We ask that you abandon USGS' recent proposal with respect to helium and uranium and retain them on the list of critical minerals.

## Helium

In its proposal, USGS relies on unreasonable criteria to exclude helium from its draft list of critical minerals. The list is based on a methodology that includes: "(1) A quantitative evaluation wherever sufficient data were available, (2) a semi-quantitative evaluation of whether the supply chain had a single point of failure, and (3) a qualitative evaluation when other evaluations were not possible."<sup>1</sup> The quantitative evaluation uses: "(A) a net import reliance indicator of the dependence of the U.S. manufacturing sector on foreign supplies, (B) an enhanced production concentration indicator which focuses on production concentration outside of the United States, (C) weights for each producing country's production contribution by its ability or willingness to continue to supply the United States."<sup>2</sup> USGS explains that it removed helium from its draft list because "helium...does not meet the quantitative threshold nor have a single point of failure."<sup>3</sup>

The Energy Act of 2020 does not set forth the methodology that USGS used. Instead, the Act defines "critical mineral" to include minerals that "the supply chain of which is vulnerable to disruption (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, violent unrest, anticompetitive or protectionist behaviors, and other risks throughout the supply chain)."<sup>4</sup> We find it difficult to understand how USGS can assess these risks by relying on a methodology that, in the case of helium, was mostly quantitative. Foreign political risk, military conflict, violent unrest, and anticompetitive and protectionist behavior effectively requires a meaningful *qualitative* assessment on the part of USGS. The Act authorizes

<sup>1</sup> 86 Fed. Reg. 62199, 62200-62201.

<sup>2</sup> *Ibid.* at 62201.

<sup>3</sup> *Ibid.* at 62202.

<sup>4</sup> 30 U.S.C. 1606(c)(4)(A)(ii).

USGS to use “qualitative evidence” and it should consider doing so whenever foreign political risk, military conflict, violent unrest, and anticompetitive and protectionist behavior are at issue.<sup>5</sup>

We believe even the most basic qualitative assessment of the foreign political risk, military conflict, violent unrest, and anticompetitive and protectionist behavior associated with helium would show that helium should remain on the list of critical minerals. U.S. production of helium is rapidly declining and is expected to be 35 percent of world helium production by 2026. The two principal countries which will offset the decline in U.S. production are Qatar and Russia. By 2026, they will account for up to 60 percent of the world’s helium production. However, USGS should not assume that both countries will be reliable sources of helium. Qatar was the target of an embargo between 2017 and early 2021, which halted its helium production for a month and upended the global helium market. Even absent any embargo, Qatar’s helium passes through the Straits of Hormuz, which has among the highest geopolitical tension in the world. Meanwhile, Russia has long withheld its natural resources for political ends. It repeatedly withheld natural gas from Ukraine between 2006 and 2014 and is withholding gas from Europe now.<sup>6</sup> Finally, Algeria, the world’s fourth largest helium producer, has been in political crisis for years.<sup>7</sup>

### Uranium

In its proposal, USGS relies on an irrelevant statutory definition as the basis for its decision to exclude uranium from the list of critical minerals. USGS explains that the definition of “mineral fuels” in the Mining and Minerals Policy Act of 1970 excludes uranium. It then uses the term “mineral fuels” in the Mining and Minerals Policy Act to define “fuel minerals” in the Energy Act of 2020. It says “[b]ased on these definitions, uranium was not evaluated for inclusion on the 2021 draft list of critical minerals.”<sup>8</sup> However, the term “mineral fuels” in the Mining and Minerals Policy Act does not apply to the Energy Act. Likewise, the term “fuel minerals” in the Energy Act does not reference the Mining and Minerals Policy Act. The fact that these two terms are not identical indicates, at a minimum, that USGS should not equate them with one another.

Instead, USGS should rely on the terms that the Energy Act provides. Specifically, USGS should acknowledge that the Energy Act does not define “fuel minerals.” It should further acknowledge that any effort *on the part of USGS* to define the term “fuel minerals” must not be at odds with the Energy Act’s definition of “critical mineral.” The Act defines “critical mineral” to include minerals that “serve an essential function in the manufacturing of a product (including energy technology-, defense-...and healthcare-related applications).”<sup>9</sup> If a mineral, like uranium, serves this function, USGS should evaluate it for inclusion on the list of critical minerals whether or not the mineral can also be used as a fuel in other applications. USGS has no authority to nullify the statutory definition of “critical mineral” by adopting an aggressive definition of “fuel minerals.”

The Department of the Interior should adhere to the approach it took when evaluating uranium just a few years ago. Using language that Congress later adopted in the Energy Act, Executive Order 13817 directed the Secretary of the Interior to develop a list of critical minerals. The Executive Order defined a “critical mineral” to include “a non-fuel mineral...that serves an

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<sup>5</sup> 30 U.S.C. 1606(c)(2).

<sup>6</sup> David Sheppard et al., “IEA chief accuses Russia of worsening Europe’s gas crisis,” *Financial Times*, 12 Jan. 2022.

<sup>7</sup> Herman Wang, “As Europe seeks alternatives to Russian gas, Algeria has pipeline capacity to spare,” *S&P Global Platts*, 28 Jan. 2022 (“...Algeria’s economy has yet to prove stable. The volatile country is still wracked by deadly citizen protests, worker strikes and corruption scandals involving state energy firm Sonatrach, which could endanger its oil and gas production. ‘The country is going through an enormous political [and] security crisis at the moment, and in Algeria, politics and the regime’s survival always trump the economy,’ said Charles Gurdon, managing director of consultancy Menas Associates.”).

<sup>8</sup> 86 Fed. Reg. 62199, 62200.

<sup>9</sup> 30 U.S.C. 1606(c)(4)(A)(iii).

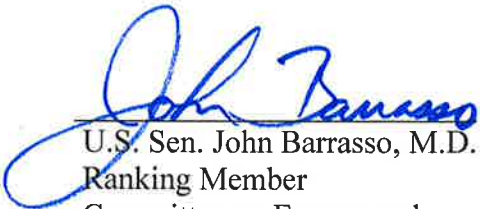
essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.”<sup>10</sup> The Department included uranium on its list because “[f]ederal interagency feedback to Interior on the initial draft list highlighted one mineral, uranium, with both fuel and non-fuel uses.”<sup>11</sup> Nothing material has changed in the law since 2018 to justify the Department removing uranium from the list of critical minerals.

Finally, we note that the Energy Act authorizes you to “designate and include on the list any mineral, element, substance, or material determined by another Federal agency to be strategic and critical to the defense or national security of the United States.”<sup>12</sup> In 2019, the Department of Commerce stated that “Domestic Uranium Production Is Essential to U.S. National Security”<sup>13</sup> and that “[a] healthy U.S. commercial uranium industry is essential for defense needs.”<sup>14</sup> It went on to say that “[u]ranium is also essential to maintaining U.S. critical infrastructure sectors” and explained that “[c]ritical infrastructure...provides the ‘essential services that underpin American society’ and ‘are vital to public confidence and the Nation’s safety, prosperity, and wellbeing.’”<sup>15</sup> In 2020, the Department of Energy called uranium “an important and unique critical mineral.”<sup>16</sup> In short, you have broad authority to continue to retain uranium on the list of critical minerals.

### Conclusion

For decades, the United States has witnessed domestic uranium production and our share of world uranium production decline precipitously. During this time, Russia and its allies, like Kazakhstan, gained a commanding share of the global uranium market. We are now almost entirely dependent on foreign sources of uranium. If we are not vigilant, a similar set of events will happen with helium. As U.S. production declines, Russia has made massive investments to take our place in the global helium market. Removing uranium and helium from the final list of critical minerals may signal that the Biden administration welcomes these developments. We think such a signal would be a grave and costly mistake for our country, especially at a time when political tensions between the U.S. and Russia are at their highest level in generations.

Thank you for your consideration and we look forward to your prompt response.



U.S. Sen. John Barrasso, M.D.  
Ranking Member  
Committee on Energy and  
Natural Resources



U.S. Sen. Mike Lee  
Ranking Member  
Subcommittee on Public Lands,  
Forests, and Mining

Cc: The Honorable Jennifer M. Granholm, Secretary of Energy

<sup>10</sup> Sec. 2(a) of Executive Order 13817 (December 20, 2017).

<sup>11</sup> 83 Fed. Reg. 23295.

<sup>12</sup> 30 U.S.C. 1606(c)(4)(B).

<sup>13</sup> 86 Fed. Reg. 41540, 41541.

<sup>14</sup> *Ibid.* at 41566.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Restoring America’s Competitive Nuclear Energy Advantage: A Strategy to Assure U.S. National Security* (Department of Energy, April 23, 2020) at 8.