

**UNLEASHING AMERICA'S ENERGY
AND MINERAL POTENTIAL**

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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OVERSIGHT HEARING ON UNLEASHING AMERICA'S ENERGY AND MINERAL POTENTIAL

Wednesday, February 8, 2023
U.S. House of Representatives
Committee on Natural Resources
Washington, DC

The Committee met, pursuant to notice, at 10:02 a.m., Room 1324, Longworth House Office Building, Hon. Bruce Westerman [Chairman of the Committee] presiding.

Present: Representatives Westerman, Lamborn, McClintock, Graves, LaMalfa, González-Colón, Fulcher, Stauber, Curtis, Tiffany, Carl, Rosendale, Boebert, Bentz, Kiggans, Collins, Luna, Hageman; Grijalva, Gallego, Levin, Porter, Leger Fernández, Stansbury, Peltola, Kamlager-Dove, Magaziner, Mullin, Hoyle, and Dingell.

The CHAIRMAN. The Committee on Natural Resources will come to order.

Without objection, the Chair is authorized to declare recess of the Committee at any time.

The Committee is meeting today to hear testimony on unleashing America's energy and mineral potential.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. I, therefore, ask unanimous consent that all other Members' opening statements may be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

The CHAIRMAN. Good morning, and it is great to see everyone here for the first formal hearing of our Committee, as we kick off the 118th Congress.

House Republicans made a lot of promises last year, and now the American people have given us a majority, and we are ready to deliver on those promises. As we put together our legislative agenda for this Congress and heard from our constituents, it was clear that energy independence, energy security, and lowering consumer cost was a top priority for our country. And, therefore, it is a top priority of this Committee.

Energy and minerals affect every part of our daily lives. Just look around this room. We flipped on a switch to turn the lights on. We are enjoying a temperature-controlled environment, and we are receiving text messages and e-mails on our cell phones. From

the visible to the invisible, energy and minerals are woven into the fabric of our very existence.

Given this dependency, you would think that the Administration, regardless of party affiliation, would be finding every possible avenue to unlock America's potential, America's potential to produce these necessities of life that we have all come to depend on so much.

Instead, we have seen an attack on the production of American oil and gas on American mining, which translates into an attack on the economy of America, and it also doesn't help the environment out one tidbit when we are importing these products from countries that do not have near the environmental standards, near the human rights standards, or can produce these materials as efficiently and as effectively as we can here at home.

We are exporting wealth from the United States, many times, to our adversaries because of a not-in-my-backyard mentality. Well, we hope to change that mentality, and give a message to the American people that we are blessed with resources here in the United States, that we can develop these resources, that we are committed to research and to development to make these resources the cleanest, safest, most effective use of resources in the world, and promote more human rights and more dignity through the use of resources, provide people with the necessities of life, the opportunity to improve their lives, and to enjoy the benefits that the energy development in this country has given not only to America, but to the rest of the world.

There may be a narrative out there—and I know from some of the organizational meetings we have had—that Republicans only care about the bottom line, that we don't care about the environment. I would say that is contrary to the truth. Republicans care about the environment and the economy. And we know that, if we produce more of these products here at home, we benefit both. We benefit both greatly.

And we hope to be able to talk about facts. We want to look at what the real science is. I have said many times that the problem with the Democrats, and especially this Administration's policy, is two things. It is physics and math. They seem to ignore the science, and they ignore the math and try to create this idea of a utopia that right now is centered around electric vehicles. I have no problem with electric vehicles, but they are not going to solve the world's problems. They are not going to solve any kind of climate crisis, and they are certainly not going to make America more energy independent and energy secure.

[Chart.]

The CHAIRMAN. There is a chart behind me. You have a copy of it at your desk. And I hope you will take this chart and study it. This is global demand for energy, global use of energy, actually, over time by energy source. And if you study that chart, you will notice that the world was mainly using biomass in 1800, but you had the Industrial Revolution in the mid-1800s, and you see coal come onto the scene. And the global usage of energy doubled from 1800 to 1900.

And if you follow that chart, and you see the increased industrialization of the world, the global consumption of energy doubled

again by the 1940s, and then it doubled again in the 1960s. It doubled again in the 1980s, and it doubled again just a couple of years ago. And the statisticians are projecting that it will be 50 percent more by 2035.

The world has an insatiable appetite for energy, and I hope you will look closely at that chart. And I wish President Biden had looked at this chart before he made the comment last night that we need fossil fuels for 10 more years. Fossil fuels on the global energy scene make up over 80 percent—closer to 85 percent—of the world's energy production, and that is not going away.

And while we are hyper-focused on electric vehicles—if you could change every electric vehicle in America or every passenger car or light duty truck to an electric vehicle overnight, you would reduce carbon emissions globally by less than 1 percent. While we are focused on that, China's building coal-fired plants every week.

It is imperative that we look at the resources we are blessed with, that we develop those with the best technology and innovation possible, and that we do what is best for the American people and for the world.

I am not going to close, I am going to pause for a moment, and I want to recognize the Ranking Member for an opening statement.

Mr. GRIJALVA. Mr. Chairman, one of the extended prerogatives of the Chair is that you can finish whenever, and please do if you have more on the subject.

The CHAIRMAN. We will have plenty of discussion during the hearing. I want to keep it moving along. If the Ranking Member would like to make an opening statement—

Mr. GRIJALVA. Absolutely.

The CHAIRMAN I will yield you 5 minutes.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you very much, Mr. Chairman. And thank you to the witnesses for being here and taking time out of your busy schedule to be with us and to travel here.

And I want to—there was a moment yesterday during the President's State of the Union speech before Congress that I thought was almost like an epiphany, in that we reached a discussion about common ground. And that common ground effectively said Social Security and Medicare are off the table. We don't have to worry about those being part of any cut list, and we are all going to work together to make them stronger. I thought that that was a rare and good moment in which, on the surface, seemed to have the vast support of all the Members of Congress that were there. So, that was a special moment.

And I would hope that, as we look at the issues that are before us today and before the jurisdiction of this Committee, that we look to try to find some common ground on some issues. But, I don't think today is one of them.

Last week, four big oil giants—Exxon, Shell, Chevron, and ConocoPhillips—reported the largest profits in history. Together, these fossil fuel Goliaths made over a trillion dollars in sales in 2022. Needless to say, Big Oil had a good year.

And on the other hand, the climate did not. The drying of the West showed no signs of slowing down, sending the Colorado River reservoirs into historic shortages and demanding of the Federal Government and Congress that they intervene in that crisis that continues to grow, the drought in the West, and the hurricane that battered Puerto Rico, ripped through Florida, making it the deadliest hurricane to hit the state since 1935.

All told, the cost of climate disasters in the United States totaled \$165 billion last year and claimed far too many lives. Climate change is a public health, safety, environmental, and existential crisis like we have never known before.

And I think, because of that, Democrats on this Committee continue to push the issue that climate must be a central focus of any legislative consideration, and that the progress that we have made into a transition away from total dependency on fossil fuels—80, 85 percent, as the Chairman said—to renewable alternative energy sources that are clean and healthy for the world and for the American people, that continues to be central in what Democrats of this Committee will continue to advocate for, fight for, and push for, legislatively.

This Committee helped pass the most significant investment in climate action in history with the Inflation Reduction Act, the Democrats in this Committee. The IRA includes \$369 billion in investments for communities hit hardest. That includes \$4 billion to address the drought in the West, almost \$3 billion to build more resilient coastal communities, and of importance to the discussion today, to boost Federal permitting offices and environmental review processes so that the self-fulfilling prophecy of no resources, no staff, and permitting taking longer and longer feeds the same argument over and over again, that somehow this is a deliberate attack on energy production in this country. A billion dollars to bring that permitting process, expedite that process is in there, and we should support its implementations.

We made great headway in taking serious actions on climate, but it looks like my colleagues across the aisle won't be building the momentum any time soon. Instead, we have decided to dedicate this first hearing, their first message to the American people, how to make it easier for polluters to prosper in this country.

During today's hearing, you will hear about "streamline permitting," and the need to "unleash our energy potential." But before we get all hung up on these catchy slogans and they lure us into a drill-baby-drill frenzy, let's call them for what they are. They are nothing more than the industry's newest buzz words designed to trick the American people into giving them what they want.

And what do these industries want?

They want to hoard more of our public lands, despite the fact that fossil fuel industry already has thousands of approved permits across 26 million acres that they aren't even using.

They want to "streamline permitting" by stripping us of public input, the public's right to know, despite the fact that they already ignore and trample all over environmental justice communities.

They want to fast-track drilling and mining projects—I'm on my time right now, sir—so they can make more money more easily,

despite the fact that they are already raking in trillions by taking “corporate handouts and ripping off the American taxpayers.

They want Republicans to do their bidding to make it happen, which they seem all too willing to do.

But no matter what happens, no matter what Republicans want, the American people have a different vision for the future, and that involves dealing with the climate crisis, continuing the momentum toward a transition away from fossil fuels, and making center in all discussions and legislative actions going forward—what does this do, and how does this abate, mitigate, and remediate the issues around the climate crisis.

With that, Mr. Chairman, thank you very much, and I yield back.

The CHAIRMAN. The Ranking Member yields back. And as you can see, we are going to have a spirited discussion today. I look forward to delving into a lot of those charges made by my colleague, and I think the record will show that Republicans are on the side of the climate, they are on the side of the environment, and we actually have solutions that work.

And to be able to have this discussion, we have a great panel of witnesses before us today. I want to introduce our witnesses from Panel I.

We have Mr. Erik Milito, President of the National Ocean Industries Association, here in Washington, DC; Mr. JC Sandberg, he is a Chief Advocacy Officer from the American Clean Power in Washington, DC; Ms. Dana Johnson, Senior Director of Strategy and Federal Policy from WE ACT for Environmental Justice from Washington, DC; and Ms. Kathleen Sgamma, no stranger to our Committee, who is President of the Western Energy Alliance in Denver, Colorado.

Let me remind witnesses that, under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the talk button on the microphone. We do use timing lights. When you begin, the light will turn green. When you have 1 minute left, the light will turn yellow. And at the end of 5 minutes, the light will turn red. And I will ask you to please complete your statement.

I will also allow all witnesses on the panel to testify before Member questioning.

The Chair now recognizes Mr. Milito for 5 minutes.

STATEMENT OF ERIK MILITO, PRESIDENT, NATIONAL OCEAN INDUSTRIES ASSOCIATION, WASHINGTON, DC

Mr. MILITO. Chairman Westerman, Ranking Member Grijalva, and members of the Committee, thank you for inviting me to testify. My name is Erik Milito, and I am President of the National Ocean Industries Association, or NOIA.

At NOIA, we represent all segments of the offshore energy industry, including offshore oil and gas, offshore wind, offshore minerals, offshore carbon sequestration, and other emerging technologies. Our members include not just energy developers, but also the businesses large and small that do the work of building, supplying, and operating offshore energy projects.

The same U.S. companies in the supply chain that have built out the U.S. offshore oil and gas sector are already participating in the build-out of the U.S. offshore wind sector, and are leading U.S. efforts to develop carbon capture and storage infrastructure.

The offshore region, and the Gulf of Mexico in particular, have served as the backbone of U.S. energy production for decades. The United States has been producing oil in the Federal Gulf of Mexico waters since the 1940s, and production in the Gulf has been steadily increasing over the past 30 years. In fact, this region has been producing more than 1 million barrels of oil per day since 1997, and at its highest level of production on record, just over 2 million barrels per day in August 2019, right before the onset of the pandemic.

When compared to countries around the world, the U.S. Gulf of Mexico would be the 11th largest producer of oil in the global marketplace. In terms of energy affordability, production from the U.S. Gulf of Mexico plays a substantial role helping to meet global demand for energy. The U.S. Gulf of Mexico oil and gas sector truly is an economic engine. It supports about 370,000 jobs, and these jobs are dispersed throughout the country.

U.S. oil and gas production, and Gulf of Mexico production in particular, provide Americans with the best product when it comes to low-carbon barrels. Oil produced from the Gulf has a carbon intensity one-half that of other producing regions. U.S. offshore facilities are state-of-the-art, built with efficient modern designs that help to serve and prevent emissions and deliver high volumes of oil and gas with a smaller physical footprint.

Policies that restrict domestic offshore development require imports to make up the shortfall, and that supplemental production comes from higher-emitting operations in other countries. Foreign providers generally employ less environmentally protective production methods, which, when combined with the added emissions from importing oil over great distances by tanker, increases the amount of carbon released into the atmosphere, rather than decreasing it.

U.S. offshore wind is poised for dramatic growth. Offshore wind development in federally managed waters offers enormous economic and environmental benefits and will help meet renewable energy goals. While the development of U.S. wind opportunities will provide substantial benefits to states adjacent to lease areas, it will also lead to tremendous investment throughout the nation.

In areas like the Gulf Coast, you will find steel fabricators, offshore service vessels, subsea construction companies, helicopter service providers, and more who built their experience in the oil and gas industry, but will be vital to building offshore wind.

The U.S. Gulf Coast region is also uniquely situated to emerge as a global hub for carbon capture and storage, or CCS. CCS has been identified by experts throughout the world as key to meeting climate objectives. Along with excellent geologic prospects for storing carbon dioxide, the Gulf Coast is home to the full supply chain of energy companies with the engineering expertise, experience, and vision to deploy CCS projects with the scale and efficiency necessary for success.

U.S. energy policy should support the development and availability of all forms of abundant, reliable, and affordable energy supplies for Americans, while continuously reducing impacts and driving down emissions. Whether it is offshore oil and gas, offshore wind, or offshore CCS, the Federal Government must provide a pathway for investment through certainty in leasing, permitting, and regulation. Failure to do so will not prevent the investment, it will only prevent the investment from occurring here in the United States.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Milito follows:]

PREPARED STATEMENT OF ERIK MILITO, PRESIDENT, NATIONAL OCEAN INDUSTRIES ASSOCIATION

For the past 50 years, the National Ocean Industries Association (“NOIA”) has represented the interests of all segments of the offshore energy industry, including offshore oil and gas, offshore wind, offshore minerals, and offshore carbon sequestration. Our membership includes energy project leaseholders and developers and the entire supply chain of companies that make up an innovative energy system contributing to the safe and responsible exploration, development, and production of energy for the American people.

The offshore energy sector is a proven leader in solving energy challenges and delivering diverse sources of energy to the global economy. The offshore industry brings together the companies that produce foundational energy sources such as oil and gas, while leading innovation and investment in energy sources and technologies that will drive decarbonization efforts well into the future. The offshore energy sector has unparalleled expertise and experience deploying and scaling technologies at levels necessary to achieve decarbonization objectives. Companies throughout the offshore industry continue to lead the way in innovating low emission solutions that include offshore wind, carbon capture and storage, hydrogen, and geothermal, among others.

For the foreseeable future, the offshore industry will play an integral role in shaping an energy system that promotes the provision of affordable and reliable energy while continuing to reduce environmental impacts, including emissions. Importantly, for the coming decades, oil and gas supplies will remain a vital energy source for Americans and our allies around the globe, while we simultaneously integrate and add low carbon sources into the mix.

ENERGY REALITIES

Energy lifts society. A system of reliable, abundant, and affordable energy is essential for meeting basic societal needs, including healthy living conditions, health care, education, and mobility, economic or otherwise.

Oil and gas fill the fuel tanks of passenger vehicles and airplanes. They are transformed into the essential building blocks of smartphones, clothing, and medical equipment. They are in so many products we use every day that they underpin the conveniences of modern life.

Natural gas is recognized as a key energy source for providing electricity, heating, cooling, and clean cooking. More than 750 million people around the globe do not have access to electricity, which leaves entire communities at a severe and fundamental disadvantage. According to the World Health Organization (WHO), “Access to energy is critical when it comes to the functionality of health-care facilities and the quality, accessibility and reliability of health services delivered. Electricity is necessary for the operation of critically needed medical devices such as vaccine refrigeration, surgical emergency, laboratory and diagnostic equipment, as well as for the operation of basic amenities such as lighting, cooling, ventilation and communications.”¹

Globally, 2.6 billion people do not have the means for clean cooking and must use solid fuels such as wood, crop wastes, charcoal, and dung in open fires and inefficient stoves. The WHO attributes 3.8 million premature deaths each year to indoor air pollution caused by the fumes and soot generated by inefficient and dirty cooking.

¹ <https://www.who.int/activities/accelerating-access-to-electricity-in-health-care-facilities>

The tragic impacts of energy insecurity are not only experienced abroad; 44 percent of low-income American households experience energy insecurity, spending 10 percent to 20 percent of their income on energy expenses.² Energy insecurity has adverse consequences on both physical and mental health. Millions of Americans are faced with the “heat or eat” dilemma, regularly having to choose between paying utility bills and paying for food.³

Energy production in the U.S. Gulf of Mexico demonstrates that it is possible to develop offshore resources while adhering to the highest safety and environmental standards. A multitude of companies involved in offshore energy development are working collaboratively to shrink an already small carbon footprint. From electrifying operations to deploying innovative solutions that reduce the size, weight, and part count of offshore infrastructure—thus increasing safety and decreasing emissions—the U.S. Gulf of Mexico hosts a high-tech revolution.

Currently, global oil consumption is approximately 100 million barrels per day. Various scenarios forecast global oil consumption volumes through 2050 and beyond, and nearly all of them predict substantial oil production will be necessary through at least 2050. The facts, data, and our experience make clear that we should focus on the U.S. offshore region, and the Gulf of Mexico in particular, for securing those vital resources.

Oil produced from the U.S. Gulf of Mexico has a carbon intensity one-half that of other producing regions.⁴ The technologies used in deepwater production—which represents 92 percent of the oil produced in the U.S. Gulf of Mexico—place this region among the lowest carbon intensity oil-producing regions in the world.⁵ Policies that restrict domestic offshore development require imports to make up the shortfall, and that supplemental production comes from higher-emitting operations in other countries. Foreign providers generally employ less environmentally conscientious production methods, which when combined with the added emissions from transporting oil over great distances by tanker, increases the amount of carbon released into the atmosphere rather than decreasing it.

Emissions reduction is a global challenge. As analysts at Wood Mackenzie explain, “Removing or handicapping a low emitter hurts the collective global average.”⁶ Removing a proven, stable supplier such as the U.S. Gulf of Mexico would be a poor choice with devastating consequences. The better choice is to institute government policies that promote cleaner and safer domestic production, less reliance on higher-emitting foreign suppliers like Russia and China, and the preservation of hundreds of thousands of American jobs.

Efforts to restrict U.S. energy development could eventually lead to Americans of every walk of life having to contend with the issues Europe has been experiencing as a result of disrupted supply from Russia, including potential industrial curtailment and families having to make difficult choices between heat and food. Our energy reality makes it clear that U.S. energy policy should support U.S. energy production of all types, including offshore oil and gas and wind. Government policies play a substantial role in the ability to develop energy in the U.S., whether onshore or offshore, and whether the energy source is oil and gas, wind, hydrogen, or another resource. Obstructive government policies inevitably lead to adverse consequences for our energy security, national security, economic security, and decarbonization efforts.

OFFSHORE ENERGY DEVELOPMENT ENHANCES ENERGY SECURITY

Oil and Natural Gas Will Be Crucial Energy Sources for Decades to Come

Oil and natural gas touch every part of our daily lives. Fundamentally, “Everything that is fabricated, grown, operated or moved is made possible by hydrocarbons.”⁷ The U.S. Department of Energy states:

Oil and natural gas play an essential role in powering America’s vibrant economy and fueling a remarkable quality of life in the United States. Together, oil and natural gas provide more than two-thirds of the energy Americans consume daily, and we will continue to rely on them in the future. In addition to meeting

² <http://large.stanford.edu/courses/2020/ph240/radzyninski2/>

³ S. Jessel, S. Sawyer, and D. Hernández, “Energy, Poverty, and Health in Climate Change: A Comprehensive Review of an Emerging Literature,” *Front. Public Health* 7, 357 (2019).

⁴ Motiwala, and Ismail, “Statistical Study of Carbon Intensities in the GOM and PB,” *ChemRxiv*, April 13, 2020.

⁵ <https://www.woodmac.com/news/the-challenge-of-negative-emissions/>

⁶ <https://www.woodmac.com/news/opinion/could-restricting-oil-production-in-the-us-gulf-of-mexico-lead-to-carbon-leakage/>

⁷ Mark Mills, *Wall Street Journal*, January 8, 2019

our energy needs, oil and natural gas are integral to our standard of living in ways that are often not apparent. Several key advances in technology enabled a dramatic increase in domestic oil and natural gas production over the past 20 years. This increased production provides energy security and economic benefits to the entire country, and ongoing technology advances will help us to enjoy those benefits into the future.

Oil and natural gas are used in many ways that are familiar to consumers. Petroleum products power transportation, providing fuel for cars, trucks, marine vessels, locomotives, and airplanes. Natural gas generates more than one-third of the electricity needed for dependable heating, air conditioning, lighting, industrial production, refrigeration, and other essential services, and tens of millions of Americans rely on oil and natural gas to heat their homes directly and on clean burning natural gas to cook their food. But petroleum products do so much more than fuel our cars and power our homes and businesses.

While perhaps less recognized, oil and natural gas also play critical roles in supplying essential products and materials, increasing agricultural productivity, and supporting the expansion of new energy sources.

Oil, natural gas, and natural gas liquids are building blocks for a range of modern materials used to produce life-changing prosthetics, energy-efficient homes, safer cars that go farther on a gallon of gasoline, and hundreds more consumer products that Americans use every day. Plastics and chemicals derived from oil and natural gas make our food safer, our clothing more comfortable, our homes easier to care for, and our daily lives more convenient.

Natural gas is also a key ingredient for chemical fertilizers, helping increase crop production and yield per acre planted, and powering many important operations on the farm like crop drying.⁸

According to the United Nations, access to affordable, reliable, and sustainable energy is critical to achieving many international development goals, specifically, the eradication of poverty through continued improvements in education, health, and access to water.⁹ Oil and natural gas play a central role in eliminating poverty and raising the standard of living for millions by serving as a key form of abundant and affordable energy.

The nascent offshore wind sector will be part of the energy transformation and will serve to boost our nation's energy security. Through research, development, demonstration, and deployment ("RDDD"), technology advancements will enable wind and other renewable energy sources to eventually provide pathways for overcoming global energy challenges. While inevitable progress will be made in the coming decades, oil and natural gas will continue to account for a majority of our energy portfolio.

OFFSHORE ENERGY DEVELOPMENT IMPROVES ENERGY AFFORDABILITY

The cost of energy is fundamentally driven by supply and demand and, recently, global markets have been disrupted by a supply crunch in both the oil and natural gas markets. The energy paradigm has shifted over the past decade, with the United States rising to a position of energy power and emerging as the leading producer of both oil and natural gas in the world.

Vice Chairman of IHS Markit Daniel Yergin explains how things have changed:

According to the old script, United States oil production was too marginal to affect world oil prices. But the gap today between demand and available supply on the world market is narrow. The additional oil Saudi Arabia is putting into the market will help replace Iranian exports as they are increasingly squeezed out of the market by sanctions But if America's increase . . . [in oil production] . . . had not occurred, then the world oil market would be even tighter. We would be looking at much higher prices—and voters would be even angrier.¹⁰

⁸ *U.S. OIL AND NATURAL GAS: Providing Energy Security and Supporting Our Quality of Life*, U.S. Department of Energy, September 2020, p. 4.

⁹ <https://unstats.un.org/sdgs/report/2016/goal-07/>

¹⁰ Daniel Yergin, "America's New Energy Reality," *The New York Times*, June 9, 2012

Mr. Yergin made this point in 2012 at the outset of the shale revolution, but the significance of U.S. production for global energy markets is as important as ever today. In fact, Mr. Yergin reiterated this very point in February 2022 in the aptly titled op-ed in the *Wall Street Journal*, “America Takes Pole Position on Oil and Gas.”

Analysts recognize that the downturn in the oil and natural gas industry from 2014–2020, combined with ill-conceived policies and investment approaches, led to significant underinvestment in oil and natural gas exploration and infrastructure. According to Simon Flower, Chairman, Chief Analyst at Wood Mackenzie and author of a weekly column called *The Edge*, in 2021, “Underinvestment in oil supply will lead to a tight oil market later this decade. It’s a narrative that’s gained increasing traction as capital expenditure on upstream oil and gas has shrunk. Spend in 2021 is half the peak of 2014 after slumping to new depths in [2021’s] crisis.”¹¹

Mr. Flowers poses the question, “How much *new* oil supply does the world need?” His answer is, “A lot—we reckon about 20 million b/d from 2022 to 2030.” According to Flowers, “This is the ‘supply gap’, the difference between our estimate of demand in 2030 and the volumes we forecast existing fields already onstream or under development can deliver.”¹² If his numbers are correct, a huge amount of new oil is needed to close the expected gap between the supply and demand and help bring stability and affordability to oil and petroleum product prices.

Rystad Energy echoes the concern about the supply gap and the huge amount of investment needed to close it. According to Rystad, more exploration for oil and gas is needed to supply the volumes needed worldwide by 2050.¹³ In fact, it will take massive investment just to keep pace with growing demand. Rystad suggests capital expenditures of at least \$3 trillion will be required to replenish declining production from currently producing assets around the world to meet expected global demand in 2050.

Saudi Aramco CEO Amin H. Nasser identified the crux of the energy crisis in his remarks during the Schlumberger Digital Forum, on September 20, 2022:

Unfortunately, the response so far betrays a deep misunderstanding of how we got here in the first place, and therefore little hope of ending the crisis anytime soon. So this morning I would like to focus on the real causes as they shine a bright light on a much more credible way forward.

When historians reflect on this crisis, they will see that the warning signs in global energy policies were flashing red for almost a decade. Many of us have been insisting for years that if investments in oil and gas continued to fall, global supply growth would lag behind demand, impacting markets, the global economy, and people’s lives.

In fact, oil and gas investments crashed by more than 50% between 2014 and last year, from \$700 billion to a little over \$300 billion. The increases this year are too little, too late, too short-term.

Meanwhile, the energy transition plan has been undermined by unrealistic scenarios and flawed assumptions because they have been mistakenly perceived as facts. For example, one scenario led many to assume that major oil use sectors would switch to alternatives almost overnight, and therefore oil demand would never return to pre-Covid levels.

In reality, once the global economy started to emerge from lockdowns, oil demand came surging back, and so did gas.¹⁴

Mr. Nasser’s remarks about the challenges ahead are similarly profound, “Oil inventories are low, and effective global spare capacity is now about one and a half percent of global demand. Equally concerning is that oil fields around the world are declining on average at about 6% each year, and more than 20% in some older fields last year. At these levels, simply keeping production steady needs a lot of capital in its own right, while increasing capacity requires a lot more.”¹⁵

¹¹ <https://www.woodmac.com/news/the-edge/is-the-world-sleepwalking-into-an-oil-supply-crunch/>

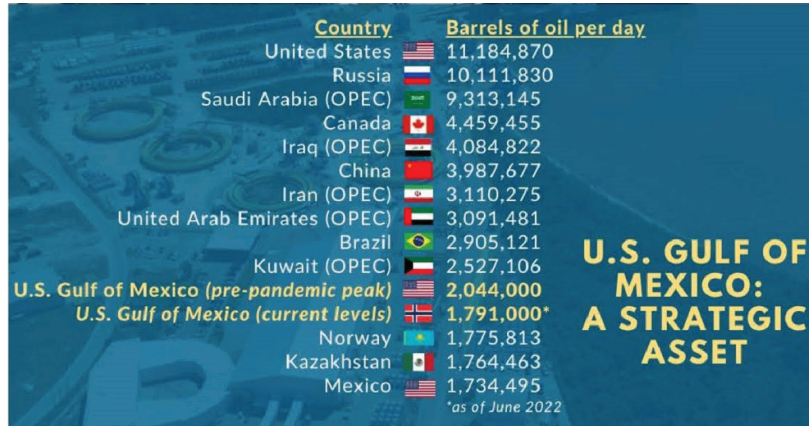
¹² <https://www.woodmac.com/news/the-edge/is-the-world-sleepwalking-into-an-oil-supply-crunch/>

¹³ <https://www.offshore-mag.com/drilling-completion/article/14188804/exploration-overdrive-urgently-required-rystad-energy-report-claims>

¹⁴ <https://www.aramco.com/en/news-media/speeches/2022/remarks-by-amin-h-nasser-at-schlumberger-digital-forum#>

¹⁵ <https://www.aramco.com/en/news-media/speeches/2022/remarks-by-amin-h-nasser-at-schlumberger-digital-forum#>

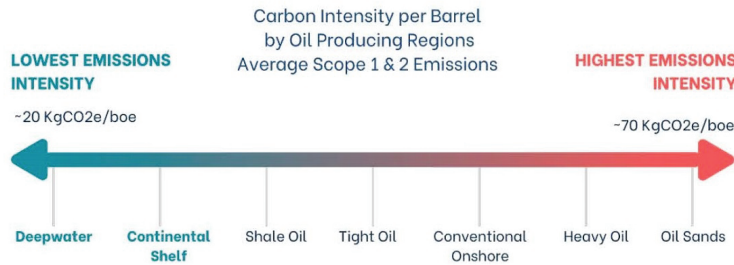
We are fortunate in the United States that our Gulf of Mexico region is up to the task of delivering the oil and gas the economy needs. Production numbers from the U.S. Gulf of Mexico place it in the company of some of the largest oil producing countries. If the Gulf of Mexico were its own country, it would be one of the top eleven oil producing countries:



Source: U.S. Energy Information Administration.

OFFSHORE LEASING PROVIDES AMONG THE LOWEST CARBON BARRELS IN THE WORLD

The U.S. offshore operates under one of the strongest regulatory and oversight regimes in the world, which means production here in the United States is more environmentally friendly than operations in many producing regions in the world. The carbon intensity of the Gulf of Mexico is 50 percent of that of other producing regions.¹⁶ Part of the reason is that U.S. Gulf of Mexico facilities deliver high volumes of oil and gas with a far smaller physical footprint. In 2019, 18 offshore facilities (with a combined surface area equal to about nine city blocks) produced 75 percent of offshore production.¹⁷



Source: Wood Mackenzie

Management practices and related regulations for venting and flaring of methane in the offshore have helped to dramatically reduce the practice in the Gulf of Mexico. The U.S. Gulf of Mexico accounted for 15% of U.S. oil production in 2019, yet EIA data shows venting and flaring emissions from offshore oil and gas operations accounted for a mere 2.6% of nationwide energy production venting and

¹⁶ Motiwala, and Ismail, “Statistical Study of Carbon Intensities in the GOM and PB,” ChemRxiv, April 13, 2020.

¹⁷ Director Scott Angelle, BSEE Director, BSEE Presentation to the Deepwater Technical Symposium, November 13, 2020.

flaring emissions in 2019.¹⁸ EPA data also shows methane emissions from offshore oil and gas production accounted for less than 1 percent of total nationwide methane emissions in 2019.¹⁹

In short, the U.S. and world depend upon reliable supplies of oil and natural gas for a high quality of life and to lift people out of poverty, and U.S. offshore production should be the basin of choice for producing that energy because of demonstrably lower GHG and environmental impacts for an energy source we will continue to need for years to come.

In fact, a 2016 report at the end of the Obama Administration—issued under then-Secretary Sally Jewell—stated, “U.S. GHG emissions would be higher if BOEM were to have no lease sales . . . Emissions from substitutions are higher due to exploration, development, production, and transportation of oil from international sources being more carbon intensive.”²⁰

Recent research from multiple sources continues to validate the low carbon benefits of U.S. Gulf of Mexico oil leasing and production:²¹

The Breakthrough Institute:

The Breakthrough Institute, a global research center that identifies and promotes technological solutions to environmental and human development challenges, recently examined the need for continued investment in greenfield oil and gas projects in the United States even in the context of aggressive decarbonization scenarios that aim to meet ambitious climate objectives.

In the report, “Oil and Gas Assets at Risk, *How will clean energy’s rise impact oil and gas communities in the United States amidst shrinking fossil fuel demand?*,”²² authored by Rystad Energy, Dr. Zeke Hausfather, Mark Boling, and Peter Liu, the Institute finds “Despite potentially significant declines in global oil and gas demand across the climate scenarios by 2050, our findings clearly indicate that investment in new oil and gas fields may still be necessary to meet future demand for oil and gas in all three of the climate change mitigation scenarios.”

Wood Mackenzie:

According to Wood Mackenzie, reducing oil production from the U.S. Gulf of Mexico would increase the average emissions rate for global oil production:

Using our recently updated Emissions Benchmarking Tool, which profiles emissions for more than 2,800 oil and gas assets around the world, [researchers] Oberstoetter and Usoro were able to compare the carbon intensity of the principal sources of crude used in the US. Numerous factors drive the differences in intensity: emissions in Venezuela, Colombia and Canada are driven by the more energy-intensive processes needed to produce the heavier crude qualities, while in Iraq flaring is the big problem. The overall picture is clear, however: the deep water of the Gulf of Mexico is one of the lowest-carbon sources of oil used in the US, with only Saudi Arabia coming in lower. In the light of that, Oberstoetter and Usoro argue, restrictions on US production in the Gulf could end up having a counterproductive impact on global emissions. “Removing or handicapping a low emitter hurts the collective global average.”²³

¹⁸ https://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_VGV_mmcf_a.htm

¹⁹ Draft 2021 Greenhouse Gas Inventory

²⁰ <https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/OCS-Report-BOEM-2016-065---OCS-Oil-and-Natural-Gas---Potential-Lifecycle-GHG-Emissions-and-Social-Cost-of-Carbon.pdf>. Although court decisions have questioned components of the methodology the Obama Administration used in this report, the fundamental proposition remains—a “no leasing” scenario must consider the impacts of fuel-switching, which, as shown by the outside experts discussed below, will lead to higher GHG emissions because of the unusually low GOM carbon intensity.

²¹ A recent study by researchers at the University of Arizona and elsewhere suggests that methane emissions from offshore shallow water facilities has been underestimated. However, 92 percent of offshore oil production is from deepwater, which is consistently recognized for low methane and low overall carbon emissions. The recent study analyzed just 8 percent of total shallow water facilities, with many of the facilities outside of federal jurisdiction in state waters, using a relatively new technique. Many NOIA members with facilities in federal shallow waters have focused on methane management, deploying technologies such as leak detection or electrifying activities to the extent feasible. In any event, the offshore industry will continue to review relevant data, including this recent research, as part of the ongoing process of learning and improvement.

²² <https://thebreakthrough.org/articles/oil-and-gas-assets-at-risk-impacts-of-declining-fossil-production-in-climate-scenarios-in-the-us>

²³ <https://www.woodmac.com/news/the-challenge-of-negative-emissions/>

McKinsey:

In the report titled “How the Gulf of Mexico can further the energy transition,” McKinsey describes four key factors that give the deepwater Gulf of Mexico a “low carbon advantage”:

First, in contrast to other regions where flaring natural gas without a market is more commonplace, most of the natural gas produced in the Gulf of Mexico is sold to local markets, which results in minimal routine flaring and, consequently, less GHG emissions. Second, the facilities have efficient, modern designs that minimize methane leakage. Third, wells and production facilities have a high throughput, minimizing the number of energy-intensive processes required to bring on new supply, such as drilling. And fourth, operators have made active decarbonization efforts to stay in line with environmental sustainability goals and in compliance with regulations.²⁴

McKinsey estimates production from the U.S. Gulf of Mexico could decrease by about 800,000 barrels per day by 2040 without additional projects beyond those that have already been sanctioned. In that situation, McKinsey expects lost production would be made up by substitutions from other parts of the world without much oil demand destruction. The country would be able to import sufficient oil, but it would come from higher-emitting basins, resulting in an increase in greenhouse gas emissions globally:

This supply reduction would have to be offset by alternative sources to meet global demand, which could hinder net-zero goals significantly. Because many other oil producing regions globally have total unit costs similar to those in the Gulf of Mexico, global oil price increases or substitution with other energy sources wouldn't be expected, and global demand for oil would remain unchanged. Instead, the reduced Gulf supply would be offset by production increases from other sources, such as other deepwater basins, shale, and OPEC. Based on the higher emissions per barrel of this new supply, global emissions would increase by 50 million to 100 million metric tons of CO₂e through 2040.²⁵

Offshore energy is a true story of accomplishing more with less—creating more energy with less environmental impact. Offshore production platforms are incredible edifices of continuously evolving technology that allow enormous amounts of energy to be produced through a relatively small footprint. Incredibly, 18 deepwater facilities, which equate to about the size of only nine city blocks, produce about the same amount of oil as the entire state of North Dakota.²⁶

OFFSHORE WIND

U.S. offshore wind is positioned for dramatic growth. As a leading advocate for offshore wind, NOIA continues to promote policies to enable the build-out of new offshore wind resources in federal waters. That support extends to efforts to pursue offshore wind leasing and development on the Outer Continental Shelf (“OCS”) in the Gulf of Mexico. Offshore wind projects are vital to the economic growth of this country and efforts to meet climate goals for the 21st century and beyond. According to a recent report by the American Clean Power Association, expanded offshore wind development could spark \$120 billion²⁷ in investments.

NOIA and several other allied organizations commissioned a study that examined the net economic benefits of future offshore wind opportunities. That study by Wood Mackenzie found that by leasing areas in places like offshore New York, New Jersey, the Carolinas, the Northeast, and California, offshore wind development could support 80,000 jobs per year through 2035, in addition to bringing in billions of dollars to the Treasury in the form revenue generated from new lease sales.²⁸

Clearly, offshore wind development in federally managed waters offers enormous economic and environmental benefits and will help meet renewable energy goals. The Administration has set a goal of 30 GW of offshore wind power by the year 2030. The Administration continues to take important steps to accomplish that

²⁴ Brown, Di Fiori, Smith, and Yanosek, “Deepwater Gulf of Mexico’s role during the energy transition,” McKinsey, September 2022, at pages 3-4.

²⁵ Brown, Di Fiori, Smith, and Yanosek, “Deepwater Gulf of Mexico’s role during the energy transition,” McKinsey, September 2022, at page 6.

²⁶ Director Scott Angelle, BSEE Director, BSEE Presentation to the Deepwater Technical Symposium, November 13, 2020.

²⁷ See American Clean Power Association, et al., *Federal Revenue and Economic Impacts from BOEM Offshore Wind Leasing* (December 2021), <https://cleanpower.org/resources/federal-revenue-and-economic-impacts-from-boem-offshore-wind-leasing/>.

²⁸ https://www.noia.org/noia-reports/#flipbook-df_217504/7/

objective, including scheduling of lease sales, processing and approving construction and operations plans, and modernization the regulatory framework.

From a regulatory standpoint, federal government policy must also serve to eliminate potential roadblocks to investment in energy projects, including offshore wind. As the Administration reviews and reworks regulations, such as the National Environmental Policy Act (NEPA), it will be important to ensure changes to the regulatory framework are done in a way that enhances environmental protection and energy development. Environmental stewardship and energy/economic progress are not mutually exclusive; NOIA members have consistently been leaders in both arenas. Promulgating rules that balance the need for energy development with effective environmental stewardship will provide the certainty massive investments require.

Timely, transparent NEPA processes are of significant importance to project developers, investors, employees, and contractors whose jobs and livelihoods are tied to projects subject to NEPA reviews. Preconstruction delays for projects typically add costs and delay the delivery of the benefits that projects can bring. Delays and associated cost increases can even result in projects being canceled altogether. In today's globalized economy, where there is a high level of competition for the world's investment, increasing uncertainty and delays in the federal permitting process can serve to drive investments elsewhere. The United States needs these investments to remain competitive and to support long term economic growth, as well as elevate the quality of life for communities that most need these investments.

Lack of clarity in the NEPA process not only impacts the time it takes a federal agency to act, but also increases litigation risk. Because of its broad applicability across sectors and agencies, NEPA is often at the center of project opponents' litigation strategy in seeking to delay and block energy and infrastructure projects. In response to the threat of litigation, agencies prepare NEPA analyses in defense of potential litigation, attempting to anticipate every possible objection that could be raised in court, however insignificant and however detached from the intent of NEPA. The result is that over time NEPA has become less about informing agencies and the public of environmental impacts of significance, and more about agencies attempting to avoid lengthy and costly litigation. Several NEPA-related legal challenges have already been filed over the approvals of the construction and operation plans for the early-mover offshore wind projects. Congress should continue to consider permitting legislation to streamline the NEPA process and reduce investment and litigation uncertainty. From a policy standpoint, it will also be critical for the U.S. Treasury Department to implement the available tax credits for renewable projects with flexibility so that the credits can be fully realized.

OFFSHORE CARBON CAPTURE AND STORAGE

Progress toward addressing the climate challenge will depend upon the advancement of principles of innovation, conservation, efficiency, resiliency, mitigation, and adaptation. Carbon capture and storage (CCS) is an innovative approach to mitigating greenhouse gas emissions and it will be critical for achieving the climate change ambitions and goals that have been established by diverse stakeholders around the world. U.S. leadership in CCS will help ensure the availability of abundant, reliable, and affordable domestic energy, while continuously driving down emissions.

According to the International Energy Agency:

Carbon capture, utilisation and storage (CCUS) technologies offer an important opportunity to achieve deep carbon dioxide (CO₂) emissions reductions in key industrial processes and in the use of fossil fuels in the power sector. CCUS can also enable new clean energy pathways, including low-carbon hydrogen production, while providing a foundation for many carbon dioxide removal (CDR) technologies.²⁹

As it relates specifically to the offshore, the National Petroleum Council concluded that "One of the largest opportunities for saline formation storage in the United States can be found in federal waters, particularly in the Gulf of Mexico." *Meeting the Dual Challenge*, p. 27. This is also true as it pertains to state waters along the Gulf Coast. The U.S. Gulf of Mexico offshore region provides tremendous advantages for an emerging U.S. CCS sector. The Gulf of Mexico is characterized by vast geologic prospects for CO₂ storage, extensive and established energy infrastructure along the Gulf Coast and throughout the outer continental shelf, a proximity to industrial centers for capturing emissions, and an assessable engineering and

²⁹ <https://www.iea.org/reports/the-role-of-co2-storage>

energy knowledge base and workforce, along with associated RD&D capabilities. The U.S. Gulf of Mexico could very well soon be the leader in CCS. Early projections show that 50 million tons of CO₂ annually could be stored beneath the Gulf of Mexico by 2030, more than all the CCS currently operating globally. The Gulf's storage capacity could double by 2040.

The build-out of the U.S. offshore carbon storage industry will depend upon certainty and predictability in the U.S. laws and regulations. The Infrastructure Investment and Jobs Act of 2021 (P.L. 117-58) included Sec. 40307, explicitly authorizing the Department of the Interior to grant leases, easements, or rights-of-way on the outer continental shelf for the purposes of long-term storage of CO₂. It also directed the Secretary to issue regulations to that effect within one year of enactment, or by November 2022. NOIA understands that Interior is in the process of developing the regulatory framework for offshore CO₂ sequestration as directed by the Infrastructure Investment and Jobs Act. However, a protracted timeline for finalization of the rules and for the initiation of leasing and project development could substantially impede U.S. efforts to decarbonize through offshore CCS. It will also be important for Congress to ensure adequate funding for Interior to fulfill its responsibilities for leasing and regulating the activity. Finally, the U.S. Department of Treasury must implement the 45Q tax credit with sufficient flexibility to ensure a viable and durable U.S. offshore CCS program.

CONCLUSION

Our national energy needs require continued supplies of oil and natural gas. Continued U.S. offshore oil and gas development provides vast benefits and a sensible pathway for energy security for the next few decades. At the same time, the U.S. offshore sector is contributing to the development of low and zero carbon energy options, including offshore wind, hydrogen, and carbon removal technologies. Thank you for the opportunity to testify on behalf of the offshore energy industry. NOIA and our members stand ready to work with policy makers to advance policies to ensure that Americans can rely upon an affordable and reliable energy system built upon strong pillars of energy, economic, national, and environmental security. We are also providing with our testimony, as Attachment A, the comments that we filed on the proposed national offshore oil and gas leasing program for 2023–2028. This document discusses, in great detail, the vast benefits that flow to Americans through offshore energy development, as well as the adverse consequences that will result if unreasonable restrictions are imposed.

The attachment to this testimony is part of the hearing record and is being retained in the Committee's official files.

The attachment is available for viewing at: <https://docs.house.gov/meetings/II/II00/20230208/115287/HHRG-118-II00-Wstate-MilitoE-20230208-SD001.pdf>

The CHAIRMAN. Mr. Milito, thank you for your testimony. I now wanted to recognize Mr. Sandberg.

You are recognized for 5 minutes.

STATEMENT OF JC SANDBERG, CHIEF ADVOCACY OFFICER, AMERICAN CLEAN POWER ASSOCIATION, WASHINGTON, DC

Mr. SANDBERG. Thank you, Mr. Chairman.

Chairman Westerman, Ranking Member Grijalva, members of the Committee, thank you for the opportunity to testify today. My name is JC Sandberg, and I am the Chief Advocacy Officer of the American Clean Power Association.

ACP is a leading national clean energy trade association that unites over 750 utilities developers, manufacturers, purchasers, and transmission companies focused on deploying utility-scale onshore and offshore wind, solar, storage, and hydrogen.

The clean power industry has become a significant part of our nation's energy mix. Today, over 15 percent of our nation's power comes from wind and solar. Enough wind, solar, and battery storage have been installed to power 59 million homes. The clean power industry provides 443,000 American jobs and contributes to local economies across the country by delivering over \$2.8 billion annually in state and local taxes and landowner lease payments.

And we are poised to see significant growth over the next 10 years, with expanded investments in clean energy. These investments will unleash further economic growth, create more good-paying American jobs, lower energy costs, improve our nation's domestic energy security and independence, strengthen the reliability and resiliency of the grid, and lower carbon emissions.

But a key hurdle to the future development and deployment of domestic clean energy is our current Federal permitting system. Successful deployment of clean energy resources requires a predictable, timely, and cost-effective permitting framework. However, the current process is anything but. It takes an energy generation project like a new solar or wind farm an average of 4½ years to obtain necessary NEPA reviews. To put that into perspective, a project that begins review at the very beginning of a presidential administration will not be completed by the end of the term.

For transmission projects, it is even worse, taking an average of 6½ years. Some reviews can take as long as a decade. These delays create uncertainty and raise costs for project developers and consumers, as projects are typically not allowed to proceed without a completed NEPA analysis. Meanwhile, loans and other financial obligations must be met and materials must be purchased and stored.

There is also the opportunity cost. Money invested in a project waiting to break ground could be invested somewhere else, impeding further clean energy deployment and job creation opportunities.

Permitting challenges fall especially hard on energy production located on Federal lands and waters. Although Federal lands have the capacity to host a vastly larger number of clean energy projects than they currently do, the cumbersome Federal permitting process makes it much more attractive to invest on private lands. For offshore wind, projects that are built almost exclusively in Federal waters, we are also seeing significant delays due to an inefficient and outdated permitting approval process established nearly two decades ago.

Addressing our permitting challenges at the Federal level will be critical to the future development and deployment of domestic clean energy. It is possible to implement common-sense reforms that strike the right balance of timely decisions for projects, while preserving thorough environmental reviews and maintaining collaboration with state and local stakeholders.

ACP is encouraged by ongoing efforts and various legislative proposals from both sides of the aisle, including the Transparency and Production of American Energy Act that Chairman Westerman introduced in the last Congress. The TAP American Energy Act contains key provisions that would advance the clean energy, infrastructure development, and deployment in the United States, while

not undermining our bedrock environmental laws by, among other things, putting clear timelines on NEPA reviews and eliminating requirements of duplicative environmental reviews and analysis.

Without common-sense reforms like the ones outlined in the TAP American Energy Act, and further detailed in my written testimony, America will be unable to reach our full clean energy potential.

ACP looks forward to continuing to work with this Committee and Congress on these important issues. Thank you again for the opportunity to testify today, and I look forward to taking your questions.

[The prepared statement of Mr. Sandberg follows:]

PREPARED STATEMENT OF JC SANDBERG, CHIEF ADVOCACY OFFICER, AMERICAN CLEAN POWER ASSOCIATION

Chairman Westerman, Ranking Member Grijalva, and members of the House Committee on Natural Resources, thank you for the invitation to testify at today's hearing. My name is JC Sandberg and I am the Chief Advocacy Officer for the American Clean Power Association (ACP), a national clean energy association that unites the power of onshore wind, offshore wind, solar, storage, hydrogen, and transmission companies.

Clean power has become a significant part of our nation's energy mix. Approximately 15% of our nation's power comes from wind and solar and today there is enough wind, solar, and battery storage installed across the U.S. to power more than 59 million homes. The industry provides 443,000 American jobs and delivers over \$2.8 billion each year in state and local taxes and landowner lease payments. The industry is poised to see significant growth over the next 10 years with expanded investments in clean energy infrastructure that will unleash further economic growth, create more good-paying American jobs, strengthen the reliability and resiliency of the grid and lower carbon emissions.

This new energy infrastructure is key to providing American consumers with an affordable energy supply that is free from the whims of tyrants and dictators. The infrastructure needed to create American energy independence and deliver economic opportunity needs a pathway forward to timely unlock these benefits.

However, the fact of the matter is, energy development in our country is bogged down by inefficient bureaucracy that is holding back our economy. National Environmental Policy Act (NEPA) reviews can take more than a decade to complete. Unreasonable and unnecessary permitting delays increase costs and reduce overall investment, delaying the economic and national security benefits of energy infrastructure and decreasing energy affordability and reliability.

Failure to enact critical permitting reforms puts an estimated 100 gigawatts (GW) of clean energy projects, risking investment in clean energy projects by \$100 billion over the next decade and blocking the creation of 150,000 American jobs across the country.

America's energy security can't afford to be delayed.

Let me be clear: permitting reform cannot and should not mean undercutting our environmental standards as some suggest. It is possible, without sacrificing the intent and purpose of those environmental laws, to focus on changes to the permitting process that make project approvals more efficient, predictable, and coordinated.

Commonsense reforms can expedite permitting timelines, increase transparency and accountability, and promote best practices while reducing duplication of effort and red tape.

Permitting Timelines

Successful deployment of wind, solar, storage, and transmission projects requires a predictable, timely, and cost-effective permitting framework. However, the current process is anything but. It takes an energy generation project—like a new solar or wind farm an average of 4.5 years to obtain necessary NEPA reviews.¹

¹ Executive Office of the President, Council on Environmental Quality, Environmental Impact Statement Timelines (2010-2018) (2020), 1, https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_

Transmission project reviews take an average of 6.5 years.² These delays are largely due to procedural inefficiencies in implementation rather than problems with the law itself.

This has a chilling effect on the development of vital energy infrastructure projects: delays create uncertainty and raise costs for project developers, as projects are typically not allowed to move forward until the NEPA analyses are finished. Meanwhile, loans and other obligations must be paid and materials must be purchased and stored. There is also lost opportunity costs—money invested in a project waiting to break ground could be invested somewhere else creating employment opportunities and affordable power. Additionally, these delays can have ripple effects throughout the economy—throwing off project timelines, domestic supply chains, and the indirect jobs and economic activity that would otherwise occur.

While NEPA's reach extends to any projects that need federal clearance, the burden of its prolonged timelines falls especially hard on energy production on federal lands and waters. For offshore wind, the best resources are almost exclusively found in federal waters, subjecting projects to protracted NEPA reviews. These delays have already significantly slowed deployment of the U.S. offshore wind industry and jeopardized current projects.

Onshore clean energy projects can be located on public or private lands. Since 2015, less than 1,000 megawatts (MW) of solar photovoltaic and 220 MW of onshore wind projects have been deployed on public lands.³ In the same period, 42,900 MW of utility-scale photovoltaic and 64,900 MW of onshore wind were built across the country.⁴ This is the case even though public lands have immense and largely untapped capacity to host clean energy projects.⁵ Ultimately, the time, complexity, and expense of going through the federal clearance process makes development on federal lands less competitive than on private lands.

We cannot afford to let our unnecessarily burdensome permitting process derail the promise of tapping into our abundant natural energy resources on public, as well as private, lands.

Commonsense Permitting Reforms to Expedite Timelines

The clean power industry was encouraged by the Transparency and Production (TAP) of American Energy Act that Chairman Westerman introduced in the last Congress. This legislation contained commonsense reforms that would advance clean energy infrastructure deployment in the U.S., such as expediting the NEPA review process and eliminating requirements for duplicative review and analysis.

Specifically, ACP supports the following provisions from that legislation:

- Requiring the completion of NEPA Environmental Assessments within one year and Environmental Impact Statements within two years for all energy projects, which will help support the timely completion of these reviews.
- Clarifying that “major federal actions” under NEPA are limited to those projects that are on federal land and subject to federal control, which would focus the limited resources of agencies on the actions that are within their control.
- Clarifying that certain projects within existing rights-of-way will not trigger NEPA review, which will help expedite projects in areas where the impacts have already been adequately assessed.
- Requiring reliance on prior environmental analysis if an action is substantially similar to a prior action, which will reduce duplicative efforts and help speed up project development.
- Allowing for energy corridor expansion, which would expedite the studying and designation of areas for delivering vital energy.

Timeline Report 2020-6-12.pdf#:~:text=Based%20on%20its%20review%2C%20CEQ%20found%20that%20across,and%20one%20quarter%20took%20more%20than%206.0%20years.

²Staff of the Federal Energy Regulatory Commission, Report on Barriers and Opportunities for High Voltage Transmission (2020), <https://www.congress.gov/116/meeting/house/111020/documents/HHRG-116-II06-20200922-SD003.pdf>.

³Bureau of Land Management. Wind Energy Rights-of-Way (ROW) on Public Lands. May 2021. https://www.blm.gov/sites/blm.gov/files/docs/2021-05/PROJECT%20LIST%20WIND_May_2021.pdf.

⁴American Clean Power Association. Clean Power IQ. Data Accessed 9/21/21, available at <https://cleanpoweriq.cleanpower.org>.

⁵Yale Center for Business and the Environment et al., Key economic benefits of renewable energy on public lands (May 2020), p.15 <https://cbey.yale.edu/research/key-economic-benefits-of-renewable-energy-on-public-lands>.

- And allowing agencies to accept funds from outside parties to pay for dedicated permitting staff, which would provide additional resources to help process permits.

Along with these reforms, ACP urges Congress to consider other NEPA reforms to: (1) expand the use of categorical exclusions to accelerate projects that do not pose significant impacts to the environment; (2) establish a lead agency to spearhead environmental reviews; (3) create conflict resolution procedures to ensure issues are directed to appropriate officials; (4) establish requirements that federal agencies cooperate with state, tribal, and local governments to reduce the risk of duplication of reviews; and (5) clarify that an agency should not consider NEPA alternatives that are technically and/or economically infeasible. ACP looks forward to continued work with Congress on these important permitting reforms.

Conclusion

Addressing our permitting challenges at the federal level will be critical to the future development and deployment of domestic clean energy.

Without reforms to ensure reasonable timelines, crucial investments in American infrastructure will be delayed, and in some cases diverted. The good news is that we can fix it. Commonsense process reforms to NEPA can help unlock energy infrastructure and American investment and jobs while protecting the environment. To that end, various provisions outlined in the TAP Act and other thoughtful permitting proposals will help encourage the timely deployment of clean energy infrastructure across the country, creating American jobs, as well as enhancing grid reliability, strengthening energy security, and a host of other benefits.

If our objective is true energy independence and economic growth, let's play the hand we've been dealt—which is an abundance of natural resources and the American ingenuity to capture it.

ACP looks forward to continuing to work with this Committee and Congress on these important issues.

Thank you for the opportunity to testify today. I look forward to responding to your questions.

The CHAIRMAN. Thank you, Mr. Sandberg, for your testimony. The Chair now recognizes Ms. Johnson for 5 minutes.

STATEMENT OF DANA JOHNSON, SENIOR DIRECTOR OF STRATEGY AND FEDERAL POLICY, WE ACT FOR ENVIRONMENTAL JUSTICE, WASHINGTON, DC

Ms. JOHNSON. Good morning, Chair, Ranking Member Grijalva, and members of the Committee. Thank you for the opportunity to contribute to this important conversation.

WE ACT for Environmental Justice is a northern Manhattan-based member organization whose mission is to build healthy communities. We do this by ensuring that people living in a community of color or a low-income area lead in creating sound and fair environmental health and protection policies and practices at the city, state, and federal level.

Our Federal Policy Office also serves as the administrative anchor for the Environmental Justice Leadership Forum, which is a network of 50 EJ orgs and advocates that represent 22 states, and really work to ensure that their interests are represented in policies and practices at every level of government.

Today, I am here to offer you two considerations as you begin the important deliberations on how best to legislatively ensure that our energy economy addresses the climate crisis, is accessible and affordable, and protects those who have a history of being adversely impacted by fossil fuel operations.

I want to start by urging you to keep environmental justice at the forefront of your policymaking. Eighteen million people live

within 1 mile of an active oil or gas well in the United States, including a disproportionately large number of communities of color, people living below the poverty line, older Americans, and young children.

More than 1 million African Americans in places like Texas, Louisiana, Pennsylvania, Ohio, and West Virginia live within a half-mile of an existing gas facility, and that number is expected to grow.

Members of the Navajo Nation in New Mexico are twice as likely to live within a half-mile of an oil and gas facility, compared to the rest of the state's population.

And more than a million Californians live within a half-mile of an active oil and gas facility. And, of those million, 50 percent of them are of Hispanic origin.

We know that race, more than income, is a primary factor in our land use decisions. And as a result, we see greater adverse health impacts from fossil fuel operations in our communities. These include early death, heart attacks, respiratory disorders, stroke, asthma, and absenteeism at school and work. And the financial cost? An estimated \$886 billion are spent annually on health impacts from pollution related to fossil fuel operations.

Please know that people living on the front line and fence line of fossil fuel operations want you to take action to address our energy needs. But they want you to ask yourselves three critical questions along the way: Are you creating an environment for producing or expanding an energy source that will harm communities? Are you perpetuating racially and economically disproportionate health and environmental burdens? And are you prolonging the climate crises in communities where climate change is centered?

We hope that your answers to these questions will be no.

Second, I urge you to uphold the democratic process that our current permitting legislation provides. We repeatedly hear three concerns in our work: How do we ensure energy democracy, a just transition, and uplift the need for creating justice in permitting? How will we fast track traditional and clean energy projects in a way that does not perpetuate land grabs on Indigenous lands and undermine Indigenous sovereignty? How do we impress upon you, as legislators, to focus on permitting in a way that protects our voice and provides recourse?

The National Environmental Policy Act has been called the people's environmental law. Since its inception, NEPA has been copied in more than 185 countries. In the United States, 16 states have written their own little NEPAs for state-level projects. NEPA is so influential that many call it the Magna Carta of environmental laws.

By giving people a voice in Federal project planning, NEPA is a key tool to advance our democracy and environmental justice. Public participation is an opportunity for impacted communities to provide critical input for the just and sustainable implementation of a project that could significantly affect their health and surrounding environment. We need time to organize our responses to long, technical documents. And an effort to decrease that process, like those related to energy decisions, is extreme and it is undemocratic.

I want to close by requesting that you consider the Environmental Justice for All Act, which was introduced in the 117th as H.R. 2021. It is community-led legislation, and it addresses public comment periods, proactively considers alternatives, considers cumulative impacts, and focuses on meaningfully consulting with tribes. When these things are done, projects move at an appropriate pace.

Again, we strongly support the reintroduction of the EJ for All Act in this session of Congress.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF DANA JOHNSON, SENIOR DIRECTOR OF STRATEGY AND FEDERAL POLICY AT WE ACT FOR ENVIRONMENTAL JUSTICE

Background on WE ACT for Environmental Justice

WE ACT for Environmental Justice (WE ACT) is a Northern Manhattan-based member organization whose mission is to build healthy communities. We do this by ensuring communities of color and people of low-income lead in creating sound and fair environmental health and protection policies and practices.

We are the first people of color-led environmental justice organization in New York State and are the only environmental justice group with a permanent office in Washington, DC. Our Federal Policy Office also serves as the administrative anchor for the Environmental Justice Leadership Forum (EJ Forum)—a network of approximately 50 environmental justice advocates and groups in 22 states working together to advance policies that ensure the protection and promotion of communities of color and low-income communities throughout the U.S.

My name is Dana Johnson and I serve as Senior Director of Strategy and Federal Policy at WE ACT. I have more than 20 years of strategy, operations and advocacy professional experience in fields ranging from health and science advocacy, climate and environmental justice policies to cultural competence and diversity and inclusion leadership.

Part 1: Impact of Fossil Fuel Industry in Environmental Justice Communities

Environmental Justice communities are communities of color and low-income communities that disproportionately face the brunt of environmental pollution. Fossil fuel industry serves as a significant source of pollution in environmental justice communities and occurs throughout the entire life cycle of the fossil fuels—extraction, refinement, distribution, usage and storage. The siting of communities of color and low-income communities near the fossil fuel industry is intentional. “Redlining” was the discriminatory process of grading communities that would be eligible for federally supported loans. Communities that were given lower grades tended to be Black communities and immigrant communities. The process of redlining in the 1930s created many of the environmental inequities in communities of color that persist to this day, with historically redlined communities having a higher average present-day emissions of nitrous oxides, sulfur dioxide and particulate matter.^{1,2} Historically redlined communities have also been associated with a higher exposure to oil and gas wells.³

The health impacts of redlining are vast, with historically redlined communities being associated with higher rates of emergency room visits for asthma, a higher rate of mortality from breast cancer, and later stage diagnosis for both colon and

¹ Historical red-lining is associated with fossil fuel power plant siting and present-day inequalities in air pollutant emissions; Link: <https://www.nature.com/articles/s41560-022-01162-y>

² Historical Redlining Is Associated with Present-Day Air Pollution Disparities in U.S. Cities; Link: <https://pubs.acs.org/doi/full/10.1021/acs.estlett.1c01012>

³ Historic redlining and the siting of oil and gas wells in the United States; Link: <https://www.nature.com/articles/s41370-022-00434-9#Fig1>

lung cancer.^{4,5,6} The impact of fossil fuel industries intentionally being sited near communities of color and low-income communities are costly to both the health and economic viability of these communities. It has been estimated that fossil fuel industry related air pollution is responsible for 1 in 5 deaths worldwide, more than 10 million deaths per year.⁷

Health impacts associated with pollution from the fossil fuel industry included early death, heart attacks, respiratory disorders, stroke, asthma, and absenteeism at school and work.⁸ This is coupled with the rising cost of healthcare that can worsen the economic hardship and put families in mounting medical debt. The financial impacts of the fossil fuel industry cannot be overstated, with an estimated higher end estimate of \$886.5 billion annually spent on health impacts of the fossil fuel industry.⁹ For example, in African American families the combination of higher poverty rates and lower prevalence of health insurance exacerbates the impacts of fossil fuel industry pollution.¹⁰ These injustices are truly cyclical where the pollution present in your community makes you sick to the point where you can no longer afford to leave your community.

Part 2: Upholding Democratic Processes

The National Environmental Policy Act has been called “the People’s Environmental Law.” Since NEPA’s enactment in 1970, more than 185 other countries have passed similar laws. In addition, 16 U.S. states have written their own “Little NEPAs” for state-level projects. NEPA has been so influential that many call it the “Magna Carta of environmental law.” It applies to every major action by every federal agency. Whenever a project will significantly affect a community, an agency is required to write a detailed report about it. This “environmental impact statement” must consider potential impacts, as well as alternatives to the agency’s initial plan. If an agency fails to properly consider the impacts and alternatives, it can be challenged in court. Creating barriers for public participation and judicial intervention weakens citizens’ opportunities to democratically engage in the permitting process.

Public Participation

By giving people a voice in federal project-planning, NEPA is a key tool to advance environmental justice. Public participation is an opportunity for impacted communities to provide critical input for the just and sustainable implementation of a project that could significantly affect their health and the surrounding environment. Recent changes in NEPA have restricted avenues for public participation and dismissed considerations of cumulative impacts on EJ communities. It is critical that Congress work with communities to expand opportunities for community input on proposed projects.

Communities need time to organize and respond to long technical documents; permitting rules for fossil fuel and clean energy projects that decrease the public comment period on major federal projects are undemocratic. A major cause for delays in the permitting process is actually the lack of community participation. For

⁴Associations between historical residential redlining and current age-adjusted rates of emergency department visits due to asthma across eight cities in California: an ecological study; Link: <https://pubmed.ncbi.nlm.nih.gov/31999951/>

⁵Cancer Stage at Diagnosis, Historical Redlining, and Current Neighborhood Characteristics: Breast, Cervical, Lung, and Colorectal Cancers, Massachusetts, 2001–2015; Link: <https://academic.oup.com/aje/article/189/10/1065/5812653#211341070>

⁶Neighborhood-level redlining and lending bias are associated with breast cancer mortality in a large and diverse metropolitan area; Link: <https://stacks.cdc.gov/view/cdc/102148>

⁷Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem; Link: <https://www.sciencedirect.com/science/article/abs/pii/S0013935121000487>

⁸Producing and burning fossil fuels creates air pollution that harms our health and generates toxic emissions that drive climate change. Link; <https://www.hsph.harvard.edu/c-change/subtopics/fossil-fuels-health/#:~:text=But%20burning%20them%20creates%20climate,spectrum%20disorder%20and%20Alzheimer's%20disease>

⁹Economic value of U.S. fossil fuel electricity health impacts; Link: <https://pubmed.ncbi.nlm.nih.gov/23246069/>

¹⁰Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities; Link: <https://naacp.org/resources/fumes-across-fence-line-health-impacts-air-pollution-oil-gas-facilities-african-american>

example, MIT examined 53 large scale clean energy projects that were delayed or canceled and examined why. Two key takeaways were that:

- Early engagement with potential local opponents can avoid extended delays or project cancellations; and
- Disputes between the US government and Tribal nations must be addressed separately from efforts at public participation—highlighting the need for adequate consultation practices, among other measures.¹¹

Cumulative Effects

NEPA requires federal agencies to look not just at the incremental impact of their actions, but also the “cumulative effects.” For example, one more refinery in Cancer Alley might not emit much pollution by itself, but combined with the emissions of all the other factories in the area—the cumulative effects—it might pose an unacceptable health risk. Cumulative impacts are life-or-death for already overburdened and vulnerable communities. We must avoid any permitting changes that will prevent agencies from measuring or considering these impacts.

If it was reasonable to consider cumulative impacts in 1970 when NEPA was signed into law, industry growth and expansion make these considerations all the more pressing. It is a false narrative to suggest that cumulative-impact analysis is too detailed and costly as there are more tools and data available today than ever before.

Cumulative impacts hit environmental justice communities the hardest. As a consequence of decades of discriminatory decisions and policies, poor communities and communities of color are overburdened with environmental hazards. When the government fails to consider existing hazards alongside future ones, it turns a blind eye to their deadly effects.

Climate change and greenhouse gas analysis: Cumulative impacts are also important for climate justice. Historic discrimination has pushed many people to America’s geographic margins: floodplains, unstable slopes, and barrier islands near toxic industrial and waste facilities. For example, think of the flooding in the Lower Ninth Ward after Hurricane Katrina. As a consequence, environmental justice communities are also the most vulnerable to the effects of climate change.

Part 3: Equitable Build Out of Transmission Lines

There is an urgent need to quickly build out transmission lines to facilitate our clean energy transition. As legislation is considered for expediting transmission lines, there is a critical need to ensure that environmental justice remains central.

Framing Environmental Justice Issues within Transmission Conversations:

- Energy Democracy and a Just Transition—Energy democracy and a just transition framework uplift the need for creating justice through the energy transition. This includes ensuring communities have the opportunity to fully participate in projects that will impact them.
- Indigenous Sovereignty and Land Rights—A primary concern that we have heard from Indigenous communities is how the fast tracking of projects has led to the grabbing of Indigenous lands that would undermine Indigenous sovereignty.
- Strengthening of environmental protection to account for environmental and climate justice concerns—Ensure that “fast tracking” transmission lines doesn’t result in the weakening of environmental laws such as NEPA. We do not want to “fast track” transmission lines in a way that also allows for the fast tracking of fossil fuel infrastructure. With our rapidly changing climate, and the increase in severe weather it is critical that future developments are created to withstand extreme weather. Some key concerns for energy developments include hazardous and/or chemical waste.

¹¹ Sources of opposition to renewable energy projects in the United States; Link: <https://www.sciencedirect.com/science/article/pii/S0301421522001471>

Ensuring Justice in the Siting of Transmission Lines:

The Environmental Justice for All Act (Previously introduced in the 117th as H.R. 2021) is community-led legislation that will strengthen protection and engagement for communities of color and areas of low income (as opposed to a harmful, closed-door, polluter-led deal). Specifically within the Environmental Justice for All Act there are provisions to:

- Lengthen public comment periods
- Proactively consider alternatives
- Consider cumulative impacts
- Meaningful consult with Tribes

We strongly support the reintroduction and passage of the Environmental Justice for All Act.

President Biden released the Permit Action Plan in the wake of the Bipartisan Infrastructure Deal that can be used to fast track clean energy projects. Within the Permit Action plan was mention of the authority of FERC in transmission projects. FERC has undergone rulemaking in the past year to make the permitting process for transmission projects as fast as possible. It is important that our organizations continue to support and help refine FERC's permitting process for transmission lines. Recent FERC proposed rules:

- FERC Issues Transmission NOPR Addressing Planning, Cost Allocation: improves regional transmission planning and cost allocation
- Creation of a Joint Federal-State Task Force on Electric Transmission
- FERC Proposes Interconnection Reforms to Address Queue Backlogs: establishes penalties if transmission providers fail to complete interconnection studies on time and allows for interconnection studies to be done on a larger scale

Permitting occurs on every level of government, with the permitting process for local and state level permits often differing greatly. There is a need to ensure that state and local permitting processes run in tandem with federal permits instead of progressively, this will help to shorten the overall permitting timeline.

Part 4: Additional Opportunities for Community Engagement on Clean Energy Deployment and Permitting

The Bipartisan Infrastructure Law and Inflation Reduction Act (2022) allocate nearly \$2 trillion in public funding throughout the country. Community engagement and participation are the cornerstones to creating and implementing equitable, sound and transformational policies, projects, programs and practices. Every community has unique needs that require a tailored framework; therefore, this guidance should not be regarded as all-encompassing but rather serves as a starting point for the Federal family, companies and project developers to establish a strong foundation that ensures mutually beneficial policy and project outcomes.

Guiding Principles

The foundational principles of environmental justice and democratic organizing established in the Principles of Environmental Justice (1991) and Jemez Principles of Democratic Organizing (1996) must be the starting point for approaching community engagement, public participation and community benefit agreements. Full and transparent community engagement is necessary to ensure just and equitable policies and project implementation, especially given the historic and current marginalization of environmental justice communities. Engagement is not merely community involvement: True engagement fully incorporates the community into all facets of the decision-making process.

*Environmental Justice Analyses*¹²

In the issuance of Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) federal agencies were directed to “analyze the environmental effects, including human health, economic, and social effects, of their proposed actions on minority and low-income communities.”

¹²United States Environmental Protection Agency (EPA) “Technical Guidance for Assessing Environmental Justice in Regulatory Analysis”; Institute for Policy Integrity, New York University School of Law “Improving Environmental Justice Analysis” and United States Environmental Protection Agency, Office of Research and Development “Cumulative Impacts Recommendations for ORD Research”

Environmental justice analyses are vital components of both community engagement and formal environmental reviews (which evaluate distributional impacts). When considering the unprecedented funding for climate mitigation programs in the Bipartisan Infrastructure Law and Inflation Reduction Act, it is vital that environmental justice analyses be conducted to offer a complete picture of possible project and policy impacts on already overburdened communities. For example, though the White House Environmental Justice Advisory Council has identified numerous climate mitigation strategies that could harm communities yet, projects with these identified harms have already been funded.

Environmental justice analyses are critical to minimize harms and protect environmental justice communities. Environmental justice analyses must be completed before project/policy implementation and even prior to issuing Requests for Information (RFIs), Requests for Proposals (RFPs), or other introductory enquiries. Additionally, environmental justice analyses should be performed by a vetted environmental justice scientific consultant and financed by the project developer or agency.

Community Benefit Agreements

Community Benefit Agreements (CBAs) are “legal agreements between community groups and developers, stipulating the benefits a developer agrees to fund or furnish in exchange for community support of a project.”¹³ Often, for a CBA to be successful, community organizations must form a united front among different stakeholders and enforce the legal provisions in the document.¹⁴

Thank you for the opportunity to submit written comments for the record. I look forward to continuing to engage with Members of Congress and the House Natural Resources Committee on how we can embed environmental justice throughout clean energy permitting and deployment.

QUESTIONS SUBMITTED FOR THE RECORD TO DANA JOHNSON, SENIOR DIRECTOR OF STRATEGY AND FEDERAL POLICY, WE ACT FOR ENVIRONMENTAL JUSTICE

Ms. Johnson did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Luna

Question 1. Given the global effects of China’s filthy energy production, why do you believe that we should hinder domestic energy production instead of promoting? What is the alternative if we do not produce energy domestically? How would we get our energy?

The CHAIRMAN. Thank you for your testimony. The Chair now recognizes Ms. Sgamma for 5 minutes.

STATEMENT OF KATHLEEN SGAMMA, PRESIDENT, WESTERN ENERGY ALLIANCE, DENVER, COLORADO

Ms. SGAMMA. Thank you, Mr. Chairman and members of the Committee. My written testimony is there. I think I am going to deviate a little bit, because I feel the need to address some of the statements.

Calling the oil and gas industry polluters is just simply misinformation. We work hard every single day to ensure that we are reducing environmental impact, and we produce oil and natural gas more sustainably and more environmentally protective than

¹³United States Office of Economic Impact and Diversity “Community Benefit Agreement (CBA) Toolkit”

¹⁴Patricia E. Salkin “Understanding Community Benefit Agreements: Opportunities and Traps for Developers, Municipalities and Community Organizations”

any other country in the world. So, when you talk about energy, let's get realistic.

I had to laugh when the President said that we will have oil and natural gas for the next 10 years. Well, his energy agency, the Department of Energy, predicts oil and gas consumption will continue to rise through 2050. And it will continue to rise beyond that, they just projected 2050, and that is because oil and natural gas provide a huge benefit to humanity. They provide an environmental justice for all by providing affordable, reliable energy.

Let's look at the impact from so-called clean energy. When you call us polluters, what about the huge mining waste in the Congo? What about the slave labor in China? What about all the minerals used and, I would note, all the petroleum that goes into solar panels and wind turbines, and all the minerals they need?

So, there is an environmental impact for any source of energy. We work hard in the oil and natural gas industry to make sure that our environmental impact is reduced and managed. We don't shove it over to Congo, and to China, and other areas of the world. We manage it here, in the United States, and we do so more cleanly than anywhere else.

So, when the President has to go to Venezuela, Russia, or Saudi Arabia to get oil and natural gas because he is trying to stop Federal oil on public lands, then he is bringing in something that has a higher environmental impact, that is produced non-sustainably, and that increases greenhouse gas emissions.

The oil and natural gas industry is the No. 1 reason the United States has reduced more greenhouse gas emissions than any other country. It is because of the increased use of natural gas as an electricity generation source. We have reduced more greenhouse gas emissions than wind and solar combined because we are reliable, we are on 24/7, unlike intermittent wind and solar. So, we pick up the pace when wind and solar cannot provide any energy. We back up wind and solar. We enable wind and solar. When those EVs need to run, they are running on coal and natural gas. So, we are proud to be providing the energy that Americans actually use.

And when it comes to environmental justice, there is a reason there are a lot of oil and gas wells in the Navajo Nation, because the Navajo Nation develops its energy for the benefit of its people. It provides livelihoods for the Navajo Nation. We return about \$96 million to about 20,000 individual Navajo mineral owners every year. That is environmental justice. That sustains their livelihoods.

And when we are in communities, when we operate near communities, we don't choose what communities we find oil and natural gas in. That happened millions of years ago, when the oil and natural gas was baked under geological layers millions and millions of years ago. So, we develop where we find it.

And in the West we are not hoarding public lands. In fact, we are down 71 percent from a high in the 1980s. There used to be about 168 million acres of Federal lands under lease. Today, it is under 25 million. And from that 25 million, only about 450,000 acres actually have any surface development on them, whether it is a well pad, or a road to get to that well pad. We are producing much more from Federal lands with much less impact on the lands.

So, I just felt the need to address some of that misinformation. I look forward to discussing NEPA, the Inflation Reduction Act, and other ways that Congress can put more sanity into our oil and natural gas regulatory environment. And I really appreciate the opportunity to be here today.

[The prepared statement of Ms. Sgamma follows:]

PREPARED STATEMENT OF KATHLEEN SGAMMA, PRESIDENT, WESTERN
ENERGY ALLIANCE

Chairman Westerman and Ranking Member Grijalva, thank you for the opportunity to testify today. Western Energy Alliance represents about 200 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fourteen employees.

In the West, oil and natural gas resources are inextricably bound to federal public lands, and therefore, to the men and women of the industry who work there. As much as we would like to avoid public lands because of their extensive red tape and time-consuming process, it is nearly impossible to develop in the West without touching some federal lands and/or minerals. Even when we try to site oil and natural gas operations on private, state, or tribal lands, the interlocking land and mineral ownership means that just about every project in the West will involve a federal lease, right-of-way, and/or permit.

With that attachment to the land, we take public lands stewardship very seriously. We're proud that oil and natural gas on federal and tribal lands is produced sustainably and furthers the goals of environmental justice. We've met every legitimate environmental challenge and continue to innovate to do even better. We've reduced the footprint on federal lands by up to 70% through advances in horizontal drilling and hydraulic fracturing.¹ We continue to produce more energy from less public lands. The amount of acreage under lease was at an all-time historic low when we hit historic high production on federal lands in 2019.

I will be discussing three main themes today: overregulation, NEPA delays, and corrections to the Inflation Reduction Act.

Policy Obstacles and Overregulation

Because of the obligation to protect the land, the federal onshore oil and natural gas program is a highly complex one. Of course federal lands should carry more regulation and process. They're owned by all Americans and the federal government, working with producers, has a duty to protect them. But the energy underneath the surface is also owned by all Americans. When federal regulation and process becomes unbalanced with the goal of producing the energy the Interior Department manages on behalf of all Americans, then we have a situation where the federal government is purposefully preventing federal production, resulting in higher prices for consumers, more foreign imports, less energy security, and less exports for our allies in Europe and Asia.

We know we need more energy. The administration admitted that nearly a year ago when, after the invasion of Ukraine, the White House tried to blame our producers for not developing on, interchangeably, 9,000 leases and/or permits.² The president says he wants more American production, but where he has the most control, on tribal and federal public lands, his Interior Department is making it more difficult to do so at every turn and with every policy decision. From detailed, in-the-weeds policies on how to manage leases and permits to major rules on waste prevention and decisions on when and where to lease, every opportunity is taken to throw out more red tape obstacles and process.

On the big picture, Interior is proceeding with over three quarters of a million acres of land withdrawals around Chaco Culture National Historic Park in New Mexico, the Thompson Divide in Colorado, and the Superior National Forest in Minnesota. The Chaco withdrawal would prevent Navajo mineral owners from developing their energy and providing for their families, while the Superior withdrawal prevents the development of critical minerals for wind and solar energy and

¹"Oil and Gas Impacts on Wyoming's Sagegrouse: Summarizing the Past and Predicting the Foreseeable Future," *Human-Wildlife Interactions*, Vol. 8: Iss. 2, Article 15, Dave H. Applegate, Nick L. Owens, 2014.

²Please see our position paper on the 9,000 leases/permits, which discusses the complexity behind permit and lease utilization and is attached to this testimony.

battery storage. Congress should exercise its oversight obligations with respect to these large land withdrawals.

Regarding the proposed waste prevention rule, we appreciate that it is better than the 2016 rule that Western Energy Alliance and the Independent Petroleum Association along with Wyoming and North Dakota overturned. However, it still suffers from some of the same basic problems, most notably, as with the 2016 rule, it exceeds BLM's jurisdiction and intrudes on the authority of EPA and state air quality agencies by attempting to regulate air quality in the name of preventing waste. Like the 2016 rule, the costs of the rule exceed its waste prevention benefits and can only be viewed as having overall net benefits if the air quality and climate co-benefits are included in the calculation. But the Wyoming court already held that air quality is outside BLM's jurisdiction and that such co-benefits cannot be the primary justification for the rule. We encourage Congress to keep an eye on this rule as it is becomes finalized later this year.

Regarding more specific policy changes, although with far-reaching implications, a series of policies released in November requires producers to justify any permit extension request and lease suspension with detailed justification, even on a quarterly basis. A permit extension to four years, which used to be routine, is now dribbled out every quarter, requiring paper pushing by both the company and the government. A lease suspension, which usually is related to the fact that the government or litigation hold up the operator from moving forward with development, must now be justified every year rather than until the obstacle is breached. These individually may not seem significant, but every bureaucratic cut can bring a project closer to death. It is the inherent government inefficiencies themselves that cause operators to build large inventories of permits and leases, so why does the government want to introduce more inefficiencies in the process?

Another example is the nearly unlimited discretion BLM reserves for itself on every lease, permit, and any other oil and natural gas decision on federal lands. There is already a long, drawn-out land use planning process that takes years to complete. I have never seen a Resource Management Plan (RMP) completed by any administration that does not lock away more land from oil and natural gas leasing and that does not put more restrictions on development. Yet BLM just released policy that gives itself discretion to add yet more restrictions on every lease and permit over and above what is specified in the RMPs. This self-assignment of unlimited discretion is contrary to the Federal Land Policy and Management Act (FLPMA) and therefore, arbitrary and capricious.

I appreciate the committee's oversight of the Interior Department today and how the committee is drawing attention to the administration's additional red tape meant to constrain oil and natural gas and deliver on the President's on-again, off-again statements about ending federal oil.³ I just don't think my members should get blamed for not developing on those 9,000 leases and/or permits that the White House likes to bring up. We want to move forward with delivering more energy and bringing down prices, but more Interior Department obstacles are not the way to achieve those goals. I encourage the committee to consider legislation that would reassert the obligations already found in the Mineral Leasing Act (such as the obligation to hold quarterly lease sales in all producing states) and the Energy Policy Act of 2005 (such as to ensure APDs are processed expeditiously, especially for standard permits.) These obligations are routinely ignored or the department interprets them so broadly that they no longer serve Congress' original intent.

Judges are often struggling to rule on the plain language of the laws passed by Congress and there is often not enough in the record to help them determine the intent. Judges can often be swayed by plaintiffs' overly broad interpretation of the discretion Interior does have because of ambiguities in the record and the text of the law itself. In addition to activist judges focused on predetermined outcomes divorced from the simple text of the law, we have also been in front of very conscientious judges honestly struggling to interpret the law, with some ambiguous rulings as a result.

One example was in the District Court for Wyoming. The judge struggled with the lack of clarity of what the Mineral Leasing Act means by lands available for leasing. He arrived at a conclusion that lands are not available for leasing if BLM has not completed NEPA for them. The effect would be to give BLM a get-out-of-jail-free card on having to do any leasing if it simply cannot get through the bureaucratic NEPA process. Anything this committee can do to clarify when and under what conditions leasing shall occur would be much appreciated. First and foremost,

³For example during his presidential campaign, he promised "no federal oil." Just before last November's election, he again promised "no more drilling." Contrast that with various statements blaming producers for not developing on 9,000 leases/permits.

to prevent another Biden leasing ban, would be to clarify that the Mineral Leasing Act's requirement that the Interior Secretary must hold quarterly lease sales where lands are available, meaning lands designated as available for leasing in a current RMP. Congress should clarify that quarterly means quarterly, and that BLM has the obligation to get through the NEPA process and meet those quarterly deadlines. It would also be worthwhile for Congress to clarify FLPMA's requirement for BLM to make land use management decisions based on the current RMP. BLM routinely holds up leasing in an area because its RMP is being updated, but RMP updates and supplements take years to complete.

National Environmental Policy Act (NEPA)

All Americans understand the effects of NEPA, even if they can't spell it. They understand that our infrastructure is sub-par in many places because projects to build or repair roads and bridges take too long and are held up in government red tape. Long, drawn-out NEPA analyses have long been the bane of oil and natural gas projects on federal lands, but Americans are now seeing how wind and solar energy and their mineral feedstock projects are facing the same NEPA and associated litigation challenges. Congress must do more to ensure that NEPA can be done in a reasonable and timely manner. Yet this Administration overturned the sensible and limited 2020 NEPA rule that simply clarified the scope of NEPA analysis is to focus on actual, not hypothetical, impacts of a project and limited the length and timeframes for completing NEPA. Congress should consider codifying those sensible sideboards to NEPA.

When it comes to oil and natural gas projects, Congress should clarify when NEPA is necessary. Too often BLM requires redundant NEPA, such as for additional wells on existing pads or wells drilled from adjacent nonfederal lands that touch a minority of federal minerals. When reinstating lapsed leases, which usually result from simple administrative error, BLM requires new lengthy NEPA. Further Congress should clarify the intent of NEPA is to analyze the actual impacts of a development project, including with respect to greenhouse gas (GHG) emissions, and not far-flung impacts from the distribution to and consumption of the energy by the end-use consumer. Likewise, the Council of Environmental Quality (CEQ) is moving forward with new guidance on conducting GHG and climate change analysis under NEPA, which Congress should closely scrutinize. CEQ is likely to find authority to regulate both, but Congress has granted the executive branch such authority.

Courts are struggling with the extent of GHG analysis necessary for oil and natural gas projects. We're in court defending about 6,000 leases that have been sent back to BLM for yet more GHG NEPA analysis. Development and production cannot take place on most of these leases in the meantime. Just last week, the Tenth Circuit ruled that BLM failed to do a carbon budget analysis in its NEPA for 199 permits in New Mexico. Yet in another court, the D.C. District Court, Western Energy Alliance convinced the judge that BLM does not have to do a carbon budget analysis or use the Social Cost of Carbon in cases involving thousands of leases. Congress has passed no law requiring a carbon budget or the SCC, yet it is being shoehorned in through NEPA. Congress needs to clarify to the courts the boundaries of NEPA.

Inflation Reduction Act Effects

My final main theme is the application of the Inflation Reduction Act. Ironically, Senator Manchin gave us a pretty big gift in one sense, leaving aside for now the many ways that bill increased costs on American energy and ensured energy inflation continues into the future. By tying wind and solar permitting to oil and natural gas leasing, he imposed a pretty ingenious application of all-of-the-above energy on an administration that clearly would not lease otherwise. BLM is now moving forward with leasing, however tentatively, on the basis of IRA alone, in contravention of the Mineral Leasing Act.

The problem is, since IRA was negotiated behind closed doors, it was not informed by groups like Western Energy Alliance, our members, BLM, and other public lands experts. As such, the language is full of holes and the administration is interpreting how to meet the bare minimum leased acreage requirement in IRA while circumventing the spirit and even the letter of the law. For example, BLM plans to meet the requirement to offer 50% of the acreage nominated (as identified by EOI—Expressions of Interest) by counting lands that are considered in the process, even if much of that acreage is not actually offered for sale. For example, If BLM receives EOIs for 200,000 acres and considers 100,000 acres during the leasing NEPA process but then decides to defer 50,000 acres under its broad interpretation of discretion (see above), BLM will consider the 50% IRA threshold as having been

met. Any plain language reading of IRA would conclude that 100,000 must be offered at sale before wind and solar permits can be issued.

Another example of the problems with IRA is the new fee of \$5 per acre on lease nominations, known as EOIs. Leaving aside the fact that it is one of many new taxes and fees imposed by IRA to solidify energy inflation, there are practical implications. Because it often takes the Interior Department several years to offer nominated acreage for sale, requiring the EOI fee to be paid at time of nomination results in the government holding millions of dollars of capital in a nonproductive capacity. Further, the government regularly neglects to offer nominated acreage for sale at all. It is inherently inequitable for the government to take money for a stated purpose and then never deliver on it, with no mechanism in IRA for a refund. Equally problematic is the fact that often companies other than the nominating company ultimately prevail as the highest bidder at auction. It is likewise an aberration for one company to pay the nomination expenses of another.

To rectify the situation, I urge Congress to clarify the EOI fee by specifying that it be paid by the winning bidder at the time the acreage is offered at auction. To meet the original intent of the EOI fee, which is to guard against too much acreage being nominated without sufficient interest and to cover the costs of leasing, the EOI fee should be paid by the nominating party in the event the offered parcel receives no bids. Either way, the government collects the fee at the time of sale.

I also urge Congress to drop the methane fee in IRA. The Environmental Protection Agency (EPA) and the states are moving forward with methane regulation. IRA imposed an unprecedented tax on a “pollutant” that is otherwise controlled through EPA Clean Air Act (CAA) regulation. All other CAA application for all other industries involve controlling emissions, not taxing them. Because of the difficulties of measuring the small leaks of methane emissions from wellsite equipment, the imposition of the methane tax becomes a tax on natural gas production. Since EPA is updating its methane regulations, Congress should repeal this tax and let normal CAA regulation proceed.

There are many other ideas we have at Western Energy Alliance to return the federal onshore oil and natural gas system into balance. I look forward to questioning to explore some of those details.

ATTACHMENT TO MS. SGAMMA’S TESTIMONY

Responding to the White House Blame Game

March 11, 2022 (updated with Sept 2022 data)

Western Energy Alliance

On March 3rd, White House Press Secretary Jen Psaki, in response to a question about increasing domestic oil production, attempted to shift blame to oil companies by citing “9,000 approved oil leases that the oil companies are not tapping into currently,” since adjusted to 9,000 permits. While we may not appreciate the cynical attempt to deny the effects of the president’s own “no federal oil” policies, we appreciate the White House is suddenly messaging to “encourage” us to produce. Here’s a look at some federal onshore numbers:

First the “9,000 unused leases”: There are about 35,871 leases in effect and actually 12,068 nonproducing leases, a 66% utilization rate, which is quite high:

- Many leases are held up in litigation by environmental groups. Western Energy Alliance is in court defending over 5,900 leases, most of which cannot be developed while those cases are ongoing.
- Companies must put together a complete leasehold before moving forward, particularly with the long horizontal wells that can cut across multiple leases. Sometimes a new lease is needed to combine with existing leases to make a full unit. Since the Biden leasing ban remains in effect with no onshore lease sales held since 2020, some leases are held up waiting for new leases or for the government to combine them into a formal unit.
- Before allowing development on leases, the government conducts environmental analysis under NEPA (the National Environmental Policy Act), which often takes years to complete. Many leases can be hung up by NEPA or awaiting other government approvals.

- Finally, not all leases will be developed because, after conducting exploratory work, companies may determine there are not sufficient quantities of oil and natural gas on them.

Let's talk permits. There are 4,832 permits to drill awaiting approval. The government could approve these permits now, enabling companies to forward with development. There are also about 8,663 outstanding approved permits, but there are factors that cause companies to wait to drill those wells.

- Because of the uncertainty of operating on federal lands, companies must build up a sufficient inventory of permits before rigs can be contracted to ensure the permits stay ahead of the rigs. We drill wells in a matter of days and rigs are very expensive, so it's a delicate balancing act.
- The federal permit to drill is not the only government approval required. Rights of Way (ROW) can take years to acquire before companies can access their leases and put in natural gas gathering systems. With the pressure not to flare from regulators and investors, most companies cannot drill before gathering lines are in place. Timely approvals of ROWs would enable companies to develop sooner.
- The administration has worked with anti-oil-and-gas activists to slow pipeline infrastructure. Without pipelines to move the oil and natural gas produced, wells cannot be developed.
- Capital must be acquired. Activist investors, encouraged by an administration intent on expanding its financial regulatory powers, have worked to de-bank and de-capitalize the industry. Many companies, particularly the small independents who drill the majority of federal wells, are having difficulty acquiring the credit and capital necessary to develop. By calling off bureaucratic efforts to deny financing to the industry, the president would send a strong signal to the market that investments in oil and natural gas are safe and new production could move forward.
- The Biden Administration has embarked on an agenda of regulatory overreach with extensive new regulations in the works. The uncertainty of all the new red tape puts a damper on new investment and development today, especially on federal lands where the burden is highest. Consequently, companies prioritize their nonfederal leases because there's less regulatory risk.

The CHAIRMAN. Thank you for your testimony, Ms. Sgamma. We are now going to go to Member questions. I will first recognize the gentleman from Colorado, Mr. Lamborn, for 5 minutes.

Mr. LAMBORN. Thank you, Mr. Chairman, and thank you for having this hearing. I want to thank all the witnesses for being here this morning.

I have here in my hand a letter from Laura Daniel Davis, Principal Deputy Assistant Director at the Department of the Interior dated December 8, 2022, that has some very interesting statistics on the Biden administration's approval rate for applications for permits to drill. And it is to me and 43 of my colleagues. I ask unanimous consent to introduce this letter into the record.

The CHAIRMAN. Without objection.

[The information follows:]

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, DC 20240

December 8, 2022

Hon. Doug Lamborn
U.S. House of Representatives
Washington, DC 20515

Dear Representative Lamborn:

Thank you for your letter to President Joseph R. Biden dated June 9, 2022, cosigned by 43 of your colleagues, regarding Federal oil and gas production. The Biden-Harris Administration and the Department of the Interior (Department) are committed to the responsible development of the Nation's energy and mineral resources. The White House referred your letter to the Department for review, and I welcome the opportunity to discuss your concerns.

The President and the Secretary of the Interior understand the impact high energy prices have on Americans. The crisis caused by Russia's invasion of Ukraine continues to make energy prices volatile, and the impacts of the pandemic have created supply chain issues that affect every segment of the economy, including the oil and gas industry. The Department is taking action that reflects the balanced approach to energy development and management of our Nation's public lands called for in the Department's November 2021 "Report on the Federal Oil and Gas Leasing Program" (Report). As the Report laid out, Federal oil and gas leasing programs have remained virtually unchanged for decades, despite considerable changes in market conditions and technologies and increased understanding of the programs' significant environmental and climate impacts. The United States faces an urgent need to reduce greenhouse gas emissions and accelerate its transition to a clean energy economy. The Department has a central role and responsibility in meeting these challenges.

Onshore, the Bureau of Land Management (BLM) has leased millions of acres of public land for responsible oil and gas development and production. These leases contribute to domestic oil and gas production and helped facilitate an increase in Federal onshore oil production from 0.88 million barrels of oil per day in 2020 to 1.09 million barrels of oil per day in 2021, and production continues to rise: through May, the most recent month for which data is available, federal oil production is averaging 1.14 million barrels per day in 2022. As of August 3, 2022, more than 23.8 million acres of land is leased for onshore oil and gas production, nearly half of which has not entered production yet.

In June 2022, the BLM held oil and gas lease sales that reflect the Department's strategic approach. These lease sales offered parcels in Colorado, Montana, North Dakota, New Mexico, Oklahoma, Nevada, and Wyoming and incorporated many of the recommendations in the Report. The BLM received bids on 113 parcels covering more than 71,000 acres and generated approximately \$22.3 million in revenue. Consistent with the Inflation Reduction Act (IRA), on October 6, 2022, the BLM offices in New Mexico and Wyoming began the scoping process for lease sales to take place in Spring 2023. Additional scoping processes in other states will begin shortly.

The BLM continues to process Applications for Permit to Drill (APDs) on authorized leases. The BLM approved 5,145 APDs in FY 2021, surpassing the FY 2020 total of 4,631 approvals. As of the end of August 2022, the oil and gas industry had 8,688 APDs approved and available to drill new wells on existing leases.

Offshore, as of July 1, 2022, nearly 2,000 active leases exist, primarily in the Gulf of Mexico, covering millions of acres with roughly 74 percent currently not in production. The Bureau of Ocean Energy Management (BOEM) continues to process permits on active leases for both exploration and production.

On July 1, 2022, the Department published the Proposed Program and Draft Programmatic Environmental Impact Statement (PEIS) for the 2023–2028 National Outer Continental Shelf Oil and Gas Leasing Program. This is the second step in a 3-step planning process to determine the scope of offshore oil and gas lease sales needed to best meet national energy needs for the 5-year period following approval of the program. The Proposed Program includes up to 10 potential lease sales in the Gulf of Mexico and 1 potential lease sale in the Cook Inlet.

The Department sought feedback from the public on these options during a 90-day period that ended on October 6, 2022. Following this public comment period, BOEM will prepare a Proposed Final Program and Final PEIS, which will include analysis of the size, timing, location, and number of potential lease sales in the Proposed Program. There is then a minimum 60-day period for Presidential and congressional consideration before the Secretary can approve the program and finalize the Record of Decision. As directed by the IRA, the Department issued leases to high bidders from Gulf of Mexico Lease Sale 257, on September 14, 2022. BOEM is also preparing a Draft Supplemental Environmental Impact Statement (EIS) for Gulf of Mexico Lease Sale 259 and Lease Sale 261 and recently published the Final Notice of Sale (FNOS) for Lease Sale 258 in the Alaska Region's Cook Inlet. Lease Sale 258 will be held on December 30, 2022.

Combined, oil production on Federal lands and waters reached an all-time high in 2021, at 2.77 million barrels per day, and production has outpaced that in 2022, at 2.83 million barrels per day through May.

Finally, the IRA, passed by Congress and signed into law by President Biden, includes important measures to lower energy costs while making the single largest investment in climate and clean energy in American history. This historic investment also codifies many of the reforms recommended by the Department and positions the United States to be the world's leader in clean energy. These efforts demonstrate it is possible to increase responsible development of oil and gas on public lands and ensure that the Federal oil and gas program serves the American public.

Sincerely,

LAURA DANIEL-DAVIS
Principal Deputy Assistant Secretary
Land and Minerals Management

Mr. LAMBORN. Specifically, in this letter the Biden administration is taking credit for what the Trump administration accomplished. This letter states, "The BLM approved 5,145 APDs, applications for permits to drill, in Fiscal Year 2021, surpassing the Fiscal Year 2020 total of 4,600, approximately, approvals. This period includes the last few months of the Trump presidency, when the Department of the Interior was approving APDs at an unprecedented rate. According to a 2020 GAO report, APD review times decreased from 196 days to 94 days between 2016 and 2019."

Curiously, the Department of the Interior is no longer publishing its month-by-month breakdown of approved APDs, which previous administrations have done.

So, Ms. Sgamma, can you please talk about how the APD approval process has changed under President Biden? What is that doing to American energy production?

Ms. SGAMMA. Well, I think initially, the rate went—I mean, it has been fluctuating. The monthly rate of approved APDs has been fluctuating.

Would we wish that the Federal bureaucracy could be more consistent in approving permits? Certainly. And sometimes, if there was more regularity and more certainty on when we would get a permit, we wouldn't have to request permits so far in advance. But generally, we have seen the rates kind of fluctuate coming and going.

I think, when it comes to Federal lands, we are a little bit more concerned with the games being played on the leasing side. Because if leasing dries up, as it has with the initial Biden ban on leasing, then we are really concerned about future production. But the permits have kind of stabilized. We are getting permits not as

quickly as would be efficient, but I think we are more concerned about the leasing aspect right now.

Mr. LAMBORN. OK. And a similar question. Our friends across the aisle like to bring up the fact that there are 9,000 approved permits to drill across the United States which remain unused. So, the implication is that energy companies are derelict in their pursuit of their own interest to pursue energy and make a profit and create jobs off of that.

But aren't there a lot of reasons why an APD would not be used? And could you elaborate on that, Ms. Sgamma?

And what can be done to make those 9,000 outstanding APDs more usable? If that is what we all really want.

Ms. SGAMMA. Yes, I appreciate that question, because when the Press Secretary brought up 9,000 permits about a year ago, it certainly raised the issue.

There are about 8,600 permits that have been approved that have not been used yet, and that is as of September. So, we don't know the actual up-to-date number.

Mr. LAMBORN. Why?

Ms. SGAMMA. Well, there are a variety of reasons. As I mentioned earlier, the inefficiency of getting a permit means that companies often request permits years in advance. Because if you have started a project—we drill wells really quickly now. We are so efficient, and we drill so many on a well pad that you can't afford to start your project, drill one or two wells, and then have to wait for two more permits because you are going to put eight wells on that pad, or whatever it is.

So, in order to stay ahead of your rig, you need an inventory of permits. And since you don't know if it is going to take 6 months or 2 years to get your permit, you often get those permits in hand before you even start the project, and have them in hand for a couple of years in advance. So, that is one of the reasons.

The other is simply you might be waiting for a right-of-way from the Federal Government. You might be waiting for—in order to get to your well pad you have to get across a piece of Federal land, so you need a permit for that. You might be held up waiting for an air permit. There are other reasons that we don't use those permits right away.

Mr. LAMBORN. Or litigation.

Ms. SGAMMA. Yes, well, we just had a case last week in New Mexico, where a judge called into question about 370 permits in New Mexico. We have litigation from environmental groups on about 4,000 permits in New Mexico and Wyoming.

Mr. LAMBORN. Thank you.

Ms. SGAMMA. Absolutely.

Mr. LAMBORN. And, Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman's time has expired. The Chair now recognizes the gentleman from Arizona, Mr. Gallego, for 5 minutes.

Mr. GALLEGO. Thank you, Chair Westerman and Ranking Member Grijalva.

As we have conversation in this Committee around permitting reform—and I don't doubt we will have a lot of them—we can't lose sight of why talking to people who live near these infrastructure

projects is important. We know that frontline communities are more likely to be harmed by air and water pollution from mining and drilling projects. This includes tribes and minority communities.

So, we need a permitting system that allows clean energy projects to move forward in a timely way, but we can do that while still making sure that impacted communities have a chance to participate in the process, and protect the air and water they use to survive. We can do both, and we should do both. To that end, I have a question for Ms. Johnson.

In the Inflation Reduction Act, Democrats provided almost \$1 billion for permitting agencies to ensure these reviews are efficient and effective, while still capturing public input. From your perspective, how will this help improve EPA's reviews, going forward?

Ms. JOHNSON. Thank you very much for the question. We know that the two leading reasons why projects don't advance is because they were under-funded and because the NEPA process was not followed. Making nearly \$1 billion of resources available provides opportunity for the government to staff up, to modernize systems and processes so that projects can move forward appropriately.

As was noted, the Inflation Reduction Act, as well as the bipartisan infrastructure package, includes the financial resources to be able to move work forward. So, when we have the financial resources to move a project forward, and we follow the NEPA process, then things move at an appropriate timeline. When we don't, when we try to undermine communities, when we try to skirt around processes, then we find ourselves having to take a step back and look at recourse, legal opportunities, and be sure that we have done the appropriate work to be sure that a project moves forward.

Mr. GALLEGO. Thank you, Mr. Chair. I yield back.

The CHAIRMAN. The gentleman yields back. The Chair now recognizes the gentleman from Minnesota, the Chair of the Subcommittee on Energy and Minerals, Mr. Stauber.

You are recognized for 5 minutes.

Mr. STAUBER. Thank you very much, Mr. Chair, and I appreciate all the witnesses. I want to thank you all for your testimony.

I would like to start by noting that the non-partisan Energy Information Institute projects significant increases in global and oil and gas demand for the next 5 years.

Ms. Sgamma, it is great to see you, and thank you once again for joining us today. The importance of your membership to American energy security is not lost on me. However, as you stated so clearly in your testimony, we need to update our broken permitting process so your producers can produce.

Rolling back the 2020 NEPA rule was a mistake. Could you elaborate a little more on how agencies focusing on hypothetical project impacts isn't grounded in reality, and how harmful that rule has been to your membership and to Americans nationwide?

Ms. SGAMMA. Thank you for the question. And I would agree with Mr. Sandberg. Groups are using NEPA to slow down wind and solar projects, as well.

We saw with the 2020 rules just a sensible reforms to put appropriate page limits and time limits, and focus NEPA on the

actual impacts at hand. Because I agree with Ms. Johnson, we want communities to be involved. The NEPA process has public comment already baked into it. It is part of the process.

But what was happening is NEPA is taking 5, 10, 15 years for roads, bridges—

Mr. STAUBER. 20, sometimes, in a mining community of mine.

Ms. SGAMMA. Yes, but even for roads. They are adding cost for communities all across the country and taking 10 years to build a road to do NEPA, because often the agencies are requiring the project proponent to do, basically, research projects.

So, instead of actually focusing on the impacts from the project, they have to do hypothetical studies on cumulative impacts on other projects, together with the project at hand. They have to consider all these things that are far related. We are getting requirements to do greenhouse gas analysis not from the project, but all down the line to try to imagine what the end user is going to do with that oil or natural gas. So, hypothetical research far beyond the impacts of the project at hand, and certainly far beyond the impacts of the communities at hand.

Mr. STAUBER. Thank you very much.

Mr. Milito, thank you again for joining us. We understand and appreciate the work your membership does for our nation.

As you noted, a barrel of oil from the Gulf accounts for half the emissions of oil developed abroad. However, this Administration only offered two offshore lease sales, jacked up the royalty to disincentivize participation, and then didn't defend it in court.

If global demand is rising for oil and your membership provides a smaller emissions profile, what do you think a 5-year plan should look like that meets global demand challenges with the most efficient development in the world?

Mr. MILITO. Thank you, sir. I appreciate the question.

A lot of arguments are made that our industry, we have enough leases, but those arguments really ignore the fundamental realities of the energy business. Whether it is oil and gas, solar, wind, you need acreage to develop the resource. The more acreage, the more energy you can produce. And to get acreage, you need leasing. And offshore is a region that is still an exploratory business. So, when you get a lease, there is absolutely no guarantee that it is going to produce oil or natural gas.

A company spends between \$100 and \$200 million to determine whether or not a particular lease even has oil and gas. And most times they come up empty. So, having a predictable, regularly-scheduled plan for leasing is vitally important.

We have an opportunity to go from the 1.8 million barrels today we are producing, and the estimates are, if we have continued leasing and continued permitting, we can get to 2.4 million barrels. We also can go from 370,000 jobs to 430,000 jobs. But to do that, we should have at least two lease sales per year in the Gulf of Mexico. That will also help out offshore wind, because, under the IRA, you need offshore oil and gas leasing to issue the wind leases.

Mr. STAUBER. Thank you very much.

Quickly, Mr. Sandberg, thanks for joining us. Yes or no, does American clean power understand the necessity and benefits of domestic mining to your industry?

And does American clean power support domestic mining?

Mr. SANDBERG. Thank you for the question. We support the reshoring of supply chain, and a part of that, we think, is continuing exploration for critical minerals domestically.

Mr. STAUBER. So, you support domestic mining. Is that what you said?

Mr. SANDBERG. We support the reshoring of the supply chain.

[Laughter.]

Mr. CURTIS. That's all you got.

Mr. STAUBER. Do you support domestic mining or not? Do you support mining in Minnesota or not?

Mr. SANDBERG. We support the mining of critical minerals in the United States to—

Mr. STAUBER. Thank you. You and I are going to have a great conversation. I appreciate the answer, because I had to actually pull it out of you, and that is kind of concerning, but thank you very much.

The CHAIRMAN. The gentleman's time has expired. The Chair now recognizes the gentlelady from Oregon, Ms. Hoyle, for 5 minutes.

Ms. HOYLE. Thank you. I represent the south coast of Oregon, 250 miles of the most beautiful coastline in the United States. Sorry, everybody else, but I do. And we are on the forefront of seeing the effects of climate change, whether it is wildfire—because we have federal and state and private timberlands—drought, ocean acidification. So, I firmly believe that we need to move to green energy, move away from fossil fuel, and move to green energy resources as quickly as possible.

I also am one of the few people in Congress who has actually run an agency. I was the Labor Commissioner, so I ran the Bureau of Labor and Industries. And one of the things that I found coming into an agency was that there was a lot of bureaucracy and rules that people didn't understand. And the things that were written were written at a law school or graduate school level, which meant that vulnerable workers, small businesses couldn't understand the process.

So, I also think that many of my Republican colleagues across the aisle think that the solution to that is to privatize government work, or to just decrease or wipe away regulation. And what I think is we need to ensure that we have protections for workers, we need to have high environmental standards, right, for anything that we do, but there is a way to do it.

And I think, as Democrats, we have to acknowledge that the process is difficult. So, that my community, where we are weighing in on potential offshore wind, but the tribal communities, the low-income communities, the fishing communities that want to weigh in on this, the business community, they need to be able to access the information, which means that that process could be shorter without decreasing the standards if we make it more accessible.

You shouldn't have to—no offense to lawyers—but you shouldn't have to hire a lawyer to weigh in on what is happening in your community.

So, I think we can do both, and I am happy to work in partnership with anyone to make those things more accessible, more

reasonable, and for normal people—no offense to lawyers in the room—for normal people to understand what the rules are. I think we can do both of those things.

But my question is for Mr. Sandberg.

So, I did prepare for this hearing, and I saw that American Clean Power highlighted an article on the 100,000 new jobs already created by the Inflation Reduction Act, which Democrats passed last Congress.

The Clean Energy Tax Credits in the Inflation Reduction Act also will make sure workers are paid prevailing wage, and the projects that use workers from registered, high-quality apprenticeship programs, like the ones I oversaw as Labor Commissioner, will be utilized. And I think that is important as we build our workforce, because I don't care what side of the aisle you are on, workforce is critical that we expand and invest in.

Could you share more about the jobs being created thanks to the Inflation Reduction Act?

Mr. SANDBERG. Thank you for the question. It is an exciting time for the clean energy industry. And as the industry continues to grow, we continue to employ more people.

As you mentioned, the most recent Inflation Reduction Act included some provisions to use certain types of labor, and the industry has supported that. And it continues to work with government to get a workable framework around that. But we are excited, as the industry continues to grow across the value chain, at the jobs that are coming, whether it is in manufacturing, whether it is installation and development.

It provides a rich opportunity for us to continue to grow both the domestic workforce and the domestic manufacturing base.

The CHAIRMAN. The gentlelady yields back. The Chair recognizes the gentleman from Utah, Mr. Curtis, for 5 minutes.

Mr. CURTIS. Thank you, Mr. Chairman, and a special thanks for this hearing today to our witnesses.

Before I move to my comments and questions, I want to address some comments that were made in opening remarks that seemed to imply that Republicans only care about fossil fuels, that we want to over-subsidize the industry, that we own and are responsible for the great profits that they have had in the last few months, that we are all about drill, baby, drill. None of these comments are helpful to a productive dialogue.

I would like to quote from an article at the Wall Street Journal Opinion Board. The name of the article is "Joe Biden's Big Oil Profits." To quote, "Behold the irony. President Biden has done more to enrich Big Oil and its shareholders than Donald Trump or any other White House occupant in decades."

It goes on to say, "But Big Oil companies are merely benefiting from supply surges and production constraints the Administration has helped to create."

I gave my staff a 3-minute drill, and in about 3 minutes they found over \$100 billion of subsidies to the fossil fuel industry in the IRA and other Biden legislation with carbon sequestration, biofuels, and direct air capture.

So, I would just like to point out this narrative is not accurate, it is offensive, and it doesn't help move the conversation along.

Now, turning to our guests today, I am pleased, Mr. Sandberg, to be here with you again. You and I shared a few minutes out in my district, where we talked a little bit about your industry and the branding of your industry. And one of the comments that I made at that point was I think Republicans feel that we have been falsely branded as somehow not liking clean energy and renewables. And I think it is misconstrued with our thoughts that it is not the only answer to our energy future, but we also feel like you are an important part of our mix and what we are doing.

I would be curious what your feeling is about this whole permitting issue, how much it is restraining you, and what we need to do about it.

Mr. SANDBERG. First, it was a pleasure to be with you in your district and to share some time with you.

I think there is an ability to provide common-sense reforms to NEPA processes. We are not suggesting for a second that we undermine kind of the bedrock environmental laws of this country. But there is an ability, I think, to make some common-sense reforms to do this, and I think the Congress can do that.

What does that do for the industry? Like any other industry, capital chases not just returns, but it chases certainty, and wants to avoid risk. And I think these delays in permitting introduce uncertainty into the mix. So, to the extent that we can take some of that uncertainty out by having a more regular and consistent permitting process, that is going to help us deploy more clean energy.

Mr. CURTIS. It is almost going to sound rhetorical, but it must be asked: Can we move forward in quicker times, more predictable times, and still be good stewards?

Mr. SANDBERG. I don't believe they are mutually exclusive, sir. I think we can do both.

Mr. CURTIS. Yes.

Ms. SGAMMA, do you want to comment on that, as well?

Ms. SGAMMA. Sure. I think we can do both.

I think the problem arises when certain people and politicians promise that we can just replace oil and natural gas in 10 years. I mean, at the start of the Obama administration we were supposed to be gone in 10 years. So, let's be realistic about how these energy sources work together, and let's recognize that wind and solar are facing the same NEPA delays that oil and gas are. So, let's work together and make NEPA a reasonable process.

Mr. CURTIS. So, a couple of points. I was tempted to joke—and you have now prompted me, and please understand I am not serious—but the comment last night about fossil fuels being here in 10 years kind of makes me want to say I am pretty confident renewables will be here in 10 years. Right? And they will be part of our energy mix.

We all know, and if you look at the Chairman's graph over there, we need all of you, and we need all of you to be on your game, and we need all of you to be working toward reliable, affordable, clean energy. And if you can't all achieve that, we are going to be short, all of you. And I think that is very important.

I also want to point out that I don't know a single person on my side of the aisle that wants to undermine the environmental

standards in NEPA. But to a person, I think we say it takes too long to get an answer. And once the answer comes, there is no certainty. And that needs to be fixed. It doesn't matter if you want to put in wind or solar or pipelines; all of that needs to be fixed.

With that, Mr. Chairman, I yield my time.

The CHAIRMAN. The gentleman yields back. The Chair now recognizes the gentlelady from Alaska, Mrs. Peltola, for 5 minutes.

Mrs. PELTOLA. Thank you, Mr. Chairman. Thank you all for being here.

I represent Alaska, and Alaska really depends on oil and gas development. So much of our state's economy, about a third of our households, are part of that sector, and it pays household bills. But at the statewide level, it is the vast majority of our revenues that make sure that the state is doing its constitutionally-required obligations of schools, public safety, public transportation.

So, we are very serious, and earnest, and absolute about our need for responsible development. And at the same time, I think to a person in Alaska they could give you about 50 examples of climate change. We had five snowless winters. It has impacted almost all of our species. We have a lot of species in crisis. So we, as Alaskans, we really are balancing these two things.

But to my great surprise, not everybody knows about NEPA. When I came here, I was shocked to find out that people on the East Coast don't know the acronyms that are just a part of our vernacular in Alaska, an FEIS and a ROD, and all of those things.

But one of the things I am very concerned about is public input, because that is integral to the NEPA process, is that iterative process of preferred alternatives and getting to the perfect compromise. And I just wondered—Mr. Sandberg, this question is for you—how can Congress help support the efforts of companies you represent, while ensuring local community input?

And is the EIS process for development projects sufficient for local input?

Mr. SANDBERG. We appreciate the question. I think, from the very beginning, in the earliest stages of clean energy development, our developers are engaging with communities—they have to—in an open and transparent way.

And I think that, as we do that, we find that oftentimes project opposition comes from many forms, but also oftentimes is full of misinformation. So, as we engage early in that process, both disadvantaged communities, local communities, as we seek permits from state, local, and federal agencies, we find that early, frequent, sustained engagement helps us find a more smooth process.

Do I think that there can be reforms to the NEPA process? Absolutely, right? I think that there are some common-sense things that we can do together, and many of those we detailed in written testimony, and we are happy to engage on. But I do think there are some process improvements that can be made on NEPA.

Mrs. PELTOLA. And then I have a question for you, Ms. Johnson. And as I mentioned, I want to ensure local communities have a clear seat at the table.

And I firmly believe that residents know best, and they know better than anyone how to protect their environment. And do you think that industry is doing enough in that regard?

Ms. JOHNSON. Thank you for the question. I think that it is important for industry to look holistically at the impact of a project. So, taking the time to hear from people who have a real lived experience is critical.

I think taking the time to do an environmental assessment so that we are considering the cumulative impact and exposure that people might have to a particular project is important and necessary.

I think it is a false narrative to suggest that to do those things is too detailed and it is too costly. We, as I stated earlier, incur cost when we go around community, when we don't consider them. We incur cost because we did not appropriately plan or budget for a project.

So, I think that, to reference a comment earlier about hypothetical studies being unnecessary, we don't think that they are hypothetical. We think that they are important. They consider the economic, the environmental, the public health impacts, and what that might cost us. And it is important for us to do it.

Mrs. PELTOLA. Thank you, Mr. Chairman. I yield back my time.

The CHAIRMAN. The gentlelady yields back. The Chair now recognizes the gentleman from California, Mr. McClintock, for 5 minutes.

Mr. McCLINTOCK. Thank you, Mr. Chairman. When you think about everything that we require just for our survival, not to mention the quality of our lives, everything, everything is either mined or it is grown. That is the only way to get it. Yet, this is precisely what the environmental left has targeted to suppress for the last generation.

And as I pointed out recently, it is ironic that, on the one hand, they tell us we have to produce millions of new batteries for everything from electric cars to the industrial grid, and then, on the other hand, they are doing everything they can to shut down the exponential increase in mining that these so-called green policies require.

Our prosperity requires not only the mineral resources that mining produces, it also requires cheap energy that fossil fuels produce. Last night, President Biden told us that the supply chain needs to start in America. Well, by God, the supply chain starts with the raw materials required to support everything that our economy produces and that every family depends upon for its survival, and its comfort, and its security. And that is precisely what this Administration is bringing to a standstill.

I mean, look at this war on fossil fuels. Fossil fuels produce 80 percent of the electricity in our economy. They produce it far more cheaply than wind and solar. Yet, the very first act of this Administration was to cancel the Keystone Pipeline, which today should be delivering about 800,000 barrels of crude oil every day into American markets.

According to a study that was released this week, if the Administration had just continued the energy policies of the Trump administration, America would be producing between 2 and 3 million barrels a day more than we are. Instead, we are begging Venezuela and Saudi Arabia to produce more. So much for Made in America. And that is why fossil fuel prices are skyrocketing.

If you are upset about record profits for oil companies, that is what is making those record profits possible. When something is scarce, it becomes expensive. When it is plentiful, it is cheap. Trump made it plentiful. And on Inauguration Day, the average price of a gallon of gas was \$2.59 a gallon. Today, it is \$3.48 and rising.

Where the hell do they expect the electricity for their electric cars, and trains, and stoves to come from?

If you deliberately were to set out to destroy the prosperity of working Americans, is there a more effective way to do that than dramatically restrict mining and drilling, and then divert these limited resources from their most economically productive uses to the ideological hobbyhorse of the woke environmentalist left?

Wind and solar are among the most expensive ways to produce electricity. And as Ms. Sgamma pointed out, unreliable wind and solar require conventional energy in order to maintain the electrical grid. That usually means running gas turbines at ready reserve in order to switch over the moment a cloud passes over a solar array or the wind falls off.

Ms. Sgamma, what future do you foresee for our country if these policies continue?

Ms. SGAMMA. Well, I agree with you. When we make energy scarce, we make it more expensive. And who does that hurt the most? Not the wealthy. It hurts low-income communities. It hurts disadvantaged communities.

Having access to abundant, affordable energy is the basis of human welfare.

Mr. MCCLINTOCK. So, these policies are impoverishing working Americans, low-income Americans. At the same time, our friends on the left say they really want to help these folks. Does that make any sense at all?

Ms. SGAMMA. It doesn't make sense to me. And that study you mentioned, we could have 2 to 3 million more barrels a day production here in the United States, where it is produced in an environmental manner. That means that we are sending about \$100 billion from that same study overseas instead of enjoying the tax benefits of it here that—you know, the taxes that come from oil and gas sustain communities, sustain vital services. That is what funds the government, private enterprise.

Mr. MCCLINTOCK. It is productivity, exactly right. Government doesn't finance the private sector. It is the private sector that finances the government. And that is what they are shutting down.

I am reminded of Leo Tolstoy's line. He says, "I sit on a man's back, choking him and making him carry me. And all the while, I assure himself and anyone else who will listen that I am very sympathetic of his plight, and I am willing to do everything I can to help, except by getting off his back."

I yield back.

The CHAIRMAN. The gentleman yields back. The Chair recognizes the gentlelady from Michigan, Mrs. Dingell, for 5 minutes.

Mrs. DINGELL. Thank you, Mr. Chairman.

Too many treat economic security, national security, and environmental security as mutually exclusive goals, rather than the means to secure real climate protections.

It is clear we need to accelerate our transition to a clean energy economy. But to meet our climate goals, Democrats have secured historic climate investments in the Inflation Reduction Act, and enacted a game-changing bipartisan infrastructure bill.

But there is more real work ahead of us. Deploying zero-emission technologies at scale across the country will be the greatest permitting challenge in generations, and we must build in ways that do not do harm to our communities or degrade our environment.

The climate crisis demonstrates repeatedly that our economic security, national security, and environmental security goals are completely interconnected, and demand permitting solutions that match this urgency through both efficiency of review and inclusivity of voices of the communities most affected.

I welcome my Republican colleagues' interest in permitting reform.

For me, I look at permitting reform as a tool to combat climate change, strengthen our economy, and protect our national security. But we must bring everyone to the table to do this right. We must continue to ensure that frontline communities and those who are fighting to protect their homes are heard. We must cement a critical mineral supply chain here in America. It is critical. We must confront climate change and advance the electrified transportation industry that will lead our way forward.

And, personally, as the spouse of the man that originally wrote NEPA, I know we have to protect its original intent and fine-tune it for today's realities.

It is not an either-or problem. It is a necessity for a prosperous American future.

Ms. Johnson, as I mentioned, Democrats have had a historically productive last 2 years. Between the Bipartisan Infrastructure Law and the Inflation Reduction Act, we directed billions to improving our infrastructure and deploying renewable energy. As these projects begin benefiting communities across the country, why is it important that we ensure community input is key in the design process?

And can you highlight the specific importance of the NEPA process in our transition to a clean economy?

Ms. JOHNSON. Thank you very much for the question.

I want to start off by just reflecting back on some of the conversation that we are having about the economic benefit of the oil and gas industry. I think that we are having an incomplete conversation in this space.

We are talking about the jobs that people have. We are talking about the tax dollars that might be invested in a community. But if we aren't also talking about the \$400 billion that we are estimated to have to spend to defend our coastlines, if we aren't talking about the \$886 billion of healthcare costs associated with oil and gas operations, we are having an incomplete conversation.

So, thank you very much for your question. I think that people living in communities have a vision for economic prosperity, for health prosperity. We must ensure that people are at the table designing those projects to ensure that it is reflective of the lived experience that they have had.

We have been traveling around the country, asking officials in the Federal Government to meet with communities and local and state leaders, and people have shovel-worthy projects that they are ready to have deployed in their communities. And if we have folks at the table contributing to that ideation, that decision-making process, we will get the best result from our investment in both of those spending bills.

Mrs. DINGELL. Thank you.

To my colleagues I want to say we need an honest conversation about permitting and the implementation of NEPA in the 21st century. And this is going to mean we need a meaningful bipartisan collaboration. We can accelerate deployment by becoming much more efficient and predictable, with clear timelines. We can expedite permit review by building staff capacity in the Federal agencies. We can ensure local communities have meaningful and timely input, and retain the right to judicial relief when the Federal Government gets it wrong.

And we can end—and then I will stop, Mr. Chairman, but I really want to work with you on this, because it is key to everything—we can end the environmental injustices of sacrifice zones by evaluating the cumulative impacts of projects in the communities already overburdened with unhealthy levels of pollution. We can do all of this without rolling back bedrock environmental and health protection.

Thank you, Mr. Chairman, and I yield back.

The CHAIRMAN. The gentlelady's time has expired, and I appreciate the offer to work across the aisle, and the recognition that we need to streamline, we need to do something different, and do something better going forward.

I now recognize the gentleman from Wisconsin, Mr. Tiffany, the Chairman of the Federal Lands Subcommittee, for 5 minutes.

Mr. TIFFANY. Thank you, Mr. Chairman. I take that as a guarantee that the Inflation Reduction Act is going to speed up NEPA, because we are going to have a lot more bodies in the agencies. That is what I am hearing out there, is that we have a guarantee that, with more bodies, we are going to see NEPA speed up.

Ms. JOHNSON, you cite in here some of the costs, 1 in 5 deaths worldwide, more than 10 million deaths per year as a result of various cancers, things like that. When you do your analysis of trade-offs in your organization, do you look at trade-offs? Do you look at lives that are saved as a result of having affordable energy?

Ms. JOHNSON. We consider the economic, the health, the environmental impacts of policies and practices when we are evaluating their efficacy.

Mr. TIFFANY. So, in regards to that, for example, the life expectancy in the United States of America since 1900, it was about early 50s, 52 years old, something like that. It is now in the mid-70s. Is that considered?

Infant mortality was 1 in 10 in the year 1900. It is now, like, 7 in 1,000, something like that. It could have changed a little bit over the years. Are those things taken into account? Because affordable energy was part of the reason that those great advances were taken or were made. Does your analysis take into account the good things that happen also when assessing trade-offs?

Ms. JOHNSON. So, again, we look holistically at situations. To go back in time, as you have done, we also look at the impact of land use decisions like redlining. Like, decisions that we make to center people in undesirable areas, to center oil and gas operations in places—

Mr. TIFFANY. I really appreciate that—

Ms. JOHNSON [continuing]. Where people live, and build on top of it without consideration of the—

Mr. TIFFANY. Ms. Johnson, I have a really limited amount of time, I only get 5 minutes to ask questions. If you would show me your analysis, just send it to my office, all the things that you put into your analysis, we would love to see that.

Who is not following the NEPA process? You said that you are not being able to put input in, and stuff like that, there needs to be greater input. That is required in the NEPA process. Who is not following the NEPA process that we should really get after here, because they are not allowing the input that should be allowed?

Can you name a project where they are not following the NEPA process of proper input?

Ms. JOHNSON. I have a list here, which I am happy to share with you, of 12 projects where the NEPA process was not followed.

Mr. TIFFANY. If you would share that, I would really appreciate it. I would love to see that.

You mentioned the Navajo Tribe and that there were concerns there in your opening testimony. Did you read—you perhaps don't have this documentation, but in our next panel we are going to have a group that is going to talk about mining, and there is going to be a group from the Navajo Tribe that is talking about the great things that mining has done for their tribe. Obviously, there are trade-offs.

Would you like to see that testimony about the good things that are happening as a result of mining with the Navajo Tribe?

Ms. JOHNSON. So, I think what you are raising here is a principle of environmental justice, and that is self-determination. But people have to be at the table in order to contribute to that kind of decision.

Mr. TIFFANY. They were clearly at the table, and they still are.

Ms. JOHNSON. So, if it results—

Mr. TIFFANY. Final question.

Ms. JOHNSON [continuing]. In what you are referencing, then absolutely.

Mr. TIFFANY. Final question, Ms. Johnson. Does your organization take any money from the organization called Sea Change?

Ms. JOHNSON. I have no awareness of that.

Mr. TIFFANY. OK. Do you know if any money your organization gets goes back to—we understand that there are Russian and Chinese dollars that are going into some environmental organizations. Have you tracked that at all to see if your organization has taken any money?

Ms. JOHNSON. I have no awareness of that.

Mr. TIFFANY. OK. Well, it is important to be aware of that.

I want to turn to Mr. Sandberg. In No. 2 in regards to reforms of NEPA, you said establish a lead agency to spearhead

environmental reviews. There is not a lead agency for environmental reviews?

Mr. SANDBERG. Thank you for the question. I think that we need to strengthen the ability of a lead agency to drive all the various members of the Federal family toward conclusion, and I think that is one of the process reforms that could be important as part of this permitting reform process.

Mr. TIFFANY. So, we don't have a lead agency? That is actually news to me and very unfortunate.

Mr. MILITO, will the USA be fossil fuel free in 10 years?

Mr. MILITO. No.

Mr. TIFFANY. Why not?

Mr. MILITO. Because we are going to rely upon oil and natural gas for decades to come.

We are going to see a huge increase in the use of renewables, but the oil and gas portion of our energy portfolio is also going to continue to rise substantially.

Mr. TIFFANY. So, the American people should be disabused of this notion that we are going to end fossil fuel use in 10 years.

Mr. MILITO. Absolutely. That is not reality.

Mr. TIFFANY. I yield.

The CHAIRMAN. The gentleman's time has expired. The Chair now recognizes the gentlelady from California, Ms. Kamlager-Dove.

You are recognized for 5 minutes.

Ms. KAMLAGER-DOVE. Thank you, Mr. Chair. And thank you so much for always pronouncing my name correctly.

Many of my colleagues across the aisle have discussed increasing our dependence on fossil fuels, and all of our districts are impacted by the effects of climate change 12 months out of the year, as well as our dependence on fossil fuels. I don't think science cares if you are a Republican, or a Democrat, or an Independent.

My diverse, largely Black and Brown district is home to one of the largest oil fields in the country. Instead of working to bring environmental justice to communities such as mine, who have been negatively impacted by our dependence on fossil fuels, we are discussing expanding the practices that have caused serious health problems for these communities.

Ms. JOHNSON, I have a question for you. We know that pollution in all its forms has an unacceptable and disproportionate burden on Black and low-income communities like those in my district, although one of my colleagues just yesterday from across the aisle said that because the Black population is so small, it doesn't matter if we are killed by pollution; Whites and Cajuns are of greater concern.

With all due respect, I think Black people are important, and Black and low-income communities are forced to continue to bear the brunt of a changing climate, from heat islands and drought to difficulty obtaining disaster assistance.

Now our colleagues are pushing for even more fossil fuel development that would only add to these risks and potentially kill more of us. So, could you answer how this would impact vulnerable communities across the country?

Ms. JOHNSON. Sure. I first want to note I do believe that the White House Council on Environmental Quality is the lead agency

around NEPA. I think it is important for us to be sure that their contributions to the rulemaking process are acknowledged.

To answer your question, I think in every stage of the oil and gas life cycle, from extraction to distribution, there are negative impacts on communities across the United States. As I noted earlier, because of redlining and other land use decisions, we most feel that in places where people of color and people of low income live.

I think, specifically, environmental justice communities are a part of that process. We experience water contamination during the refinement and distribution of oil and gas. Toxic pollutants are emitted into our air. And all of the health impacts that I noted earlier are a part of that.

So, I think that we need to ensure that we aren't continuing to perpetuate those disproportionate harms. We need to look at how we equitably and justly transition our energy economy in a way that is affordable, but also is done at a pace where, frankly, people feel comfortable that they do have family-sustaining wages, that they do have their credentials and their education considered in setting labor standards and wage opportunities. We need to be sure that we are preserving people's pensions and things, so that that transition occurs in a meaningful way.

I think I will stop there. I hope I answered your question.

Ms. KAMLAGER-DOVE. Yes, you did. Thank you.

And a question was asked about where the NEPA process was not followed. I think you said there were 12 projects where it was not, and I have a little bit of time. Would you like to share what some of those projects are, and what can be done to help them do what they are supposed to do?

Ms. JOHNSON. Sure. I think what I wanted to offer up is when the NEPA process was not followed, the Federal requirements were not followed, we saw places like oil and gas leases in New Mexico for the San Juan Basin not consider climate impacts in the NEPA process, and that slowed it down.

When we look at a Federal coal moratorium in California, not taking into account NEPA analysis slowed down that project's process.

When we look at leases in Wyoming, Utah, and Colorado, inadequate NEPA processes that did not consider greenhouse gas emissions from drilling and downstream use slowed down projects.

We see more of this in different places across the country. When we don't follow our process, we delay projects. The framework is not the delay.

Ms. KAMLAGER-DOVE. Thank you, Ms. Johnson.

And thank you, Mr. Chair. I yield back.

The CHAIRMAN. The gentlelady yields back. The Chair now recognizes the gentleman from Montana, Mr. Rosendale, for 5 minutes.

Mr. ROSENDALE. Thank you very much, Mr. Chairman, and thank you very much for assembling this panel. That is a very informative group here today.

Like the representative from Oregon, prior to arriving here I was responsible for regulating an agency myself, the Securities and Insurance Agency in Montana. And I discovered a lot of subjective language which lent itself to the delays and increased costs not

only for business, but that translates into increased calls for the consumers, as well.

I do think that the clarification of necessary rules and the repeal or elimination of rules that merely generate paperwork is extremely helpful. And I did so when I was the Insurance Commissioner in the state of Montana.

Ms. Sgamma, thank you so much for coming here today. I appreciate it. In Montana, we have so much untapped potential when it comes to undeveloped energy resources, particularly in the oil and gas sector. Much of this stems from the reason that you have outlined in your testimony, namely over-regulation and significant NEPA delays, the BLM's nearly unlimited discretion when it comes to—and I quote—every lease permit and any other oil and natural gas decision on Federal lands has made it close to impossible to actually break ground on any of these projects.

I am currently working with this Committee, in consultation with partners in the private sector, to introduce a bill, as you say, to clarify leasing minerals, that Interior must hold quarterly lease sales where the lands are available.

My question for you regarding that is what else, in your opinion, is the agency likely to come back with to slow down or stop this process, as leasing does not necessarily translate into permitting and production?

Ms. SGAMMA. Yes. Right now, we are seeing a situation of the Interior Department ignoring its obligations under the Mineral Leasing Act. So, I appreciate language to clarify that quarterly actually means quarterly. But they are now using their justification as the Inflation Reduction Act, which is great, because at least they have an incentive to lease oil and gas because wind and solar permits are tied to it. But they are starting to play games with the numbers.

The IRA is very clear on 50 percent of lands nominated need to come up for sale before a wind and solar permit can be issued. But they are playing games on how to count that. So, I don't want to get into the weeds on that, but I do appreciate that you are willing to clarify that language in your bill.

Mr. ROSENDALE. Sure. So, this goes directly to it—how else can they block our every move here, and continue to keep American energy from reaching its full potential, and force us to rely on these foreign entities?

Ms. SGAMMA. Well, we are proud that we produce it more sustainably on public lands than anywhere else, because there is so much more regulation and process on public lands. When we don't produce it from Federal lands, we are getting it from overseas or somewhere else, where it is not done as sustainably.

Mr. ROSENDALE. Very good. As a follow-up to that, turning now to reforming NEPA delays and the extremely litigious and effective nature of these organizations against this industry regarding NEPA, you mentioned in your testimony that about 6,000 leases are currently being defended due to increased greenhouse gas NEPA analysis—6,000.

Furthermore, you highlight that Congress has not passed any law requiring a carbon budget or the social cost of carbon, yet these

leases are still being held up to the NEPA process regarding this criteria.

So, my question here is very similar to the first one: How can we anticipate and prevent the NEPA process from continuing to be weaponized against those who try to acquire leases for energy resource development and any NEPA clarification that we pass?

Ms. SGAMMA. I think legislation that would clearly state what type of greenhouse gas analysis is necessary, because it is very easy right now in court to get a judge to say not enough greenhouse gas analysis was done, and BLM is struggling with this.

So, the project or the NEPA that Ms. Johnson mentioned regarding leasing, that wasn't because the NEPA wasn't followed or public didn't have input. That is a mischaracterization of NEPA. It is because it is almost impossible not to get a judge to find that there is some deficiency in the NEPA. So, no matter how hard and how much BLM studies it, environmental groups are going to continue to sue on greenhouse gas analysis until the analysis results in an answer that says absolutely no oil and gas should be developed because greenhouse gas emissions are created.

I mean, we all know that using oil and natural gas creates greenhouse gas emissions. But until there is an alternative that does everything that oil and gas does, just using NEPA to say no greenhouse gas emissions can be emitted from a project, that is not reality, that is shutting down our sources of energy using the NEPA process.

So, judges can find deficiencies in the NEPA. It gets sent back to BLM to redo that analysis. And we are working with BLM to get that analysis to a place where it can be.

Sorry for the long—

Mr. ROSENDALE. That is OK. Thank you very much, Ms. Sgamma.

And Mr. Chair, I yield back. Thank you.

The CHAIRMAN. The gentleman's time has expired. The Chair now recognizes the gentlelady from New Mexico.

Ms. STANSBURY, you are recognized for 5 minutes.

Ms. STANSBURY. Thank you, Mr. Chairman, and I want to welcome our panelists.

And, in particular, I want to welcome Ms. Johnson. I just witnessed an exchange, and I wanted to just take a point of personal privilege here and say that we are grateful that you are here. It takes a lot of courage for members of the public to come and testify in front of this body.

And I want to remind my colleagues that this is the people's house, not the lobbyist's house, OK, and that we should really treat members of the public who come before this body with the due respect that they deserve as they come before this body.

So, this topic is very personal to me. I grew up in a working family, and many people do not know this, but my parents were both energy workers. In fact, my mom was one of the very first women operating engineers in the state of New Mexico, and operated heavy equipment, and helped build the San Juan Generating Station, which is the coal-fired power plant that is under energy transition in northwestern New Mexico, and that many of our Navajo community members work at.

My father was an oil and gas welder who worked in the oil fields for some of the companies whose lobbyists I am sure are here in this audience today. And when the bottom dropped out of the oil and gas industry in the early 1980s, my parents had to leave Farmington, New Mexico and move to Albuquerque, which is why I grew up in the city, because this industry rises and falls on boom and bust cycles, and our working families are working people, and our communities pay the price for the profits that these industries skim off the top as we ride that wave.

So, as I have taken this role as a Member of Congress, as a former legislator, and as an American, as a New Mexican who cares deeply about my communities, I see one of my primary responsibilities as ensuring that our communities can make a just and equitable transition, that they have opportunities and investments and a seat at the table, so that they are able to participate and not just be subject to the energy industry.

As I take my role as Ranking Member in Oversight, I am hoping to elevate the voices of our communities, to provide opportunities for people who are from our communities to come and testify and participate in these hearings, for the voices of our working people to actually have a seat at the table after decades of not being able to participate in the process.

Now, NEPA and permitting is a very select slice of what it means to have energy democracy, as Ms. Johnson has talked about in her testimony. So, I really want to take this opportunity to lay out a vision for what we can do through this body to lift up our communities, to help foster a just transition, to implement the largest investment in climate action ever in the history of this country that this body passed in August of this year, which will make billions of dollars in investments in our communities and help create millions of jobs in states like mine.

And if we are smart, and if we are just, and if we are equitable, and we actually pull those chairs around the table and involve our communities in that work, we will have a just, equitable transition that gives people a sustainable life and a sustainable economy.

I also plan, of course, through my role on Oversight, to meet our trust and treaty obligations to our tribes, to work on public lands and water issues, and to address, of course, the drought that is impacting communities across the West, because we are in the people's house, because this is what we were elected to do. This is why we are here.

So, I want to take this opportunity to ask Ms. Johnson once more—I know you have already shared many of your thoughts. Can you please share with us your vision, and how you see this body can help to empower communities to make a just and equitable transition as we are building a new energy economy?

Ms. JOHNSON. Thank you very much for the acknowledgment and your question.

I think because of the rich resources that this body holds, our public lands, it is really critical and important that, as you shape policies and practices related to that, that you, as I noted, center environmental justice in those considerations, in those deliberations, and go back to those three questions that I mentioned: Are you advancing an energy source, or expanding an energy source,

that creates harm in communities, and expands racially disproportionate economic, racial, and economic impacts and harms communities?

I think if you keep those three questions at the forefront of what you are doing, we will get to that future that you described in your comments.

Ms. STANSBURY. Thank you, Ms. Johnson.

And, Mr. Chair, thank you for having this hearing, and I yield back.

The CHAIRMAN. The gentlelady yields back. The Chair now recognizes the gentlelady from Colorado, Mrs. Boebert, for 5 minutes.

Mrs. BOEBERT. Thank you, Mr. Chairman.

There is a rise and fall in our communities, as Ms. Stansbury pointed out. But it is not just because of the oil and gas industry and the ebbs and flows of that. It is because of politicians and their bad policies that they are forcing on Americans. I know many communities have experienced a very large fall from the rise that they had because they are being regulated into poverty.

And we are not subject to oil and gas. We are subject, unfortunately, to climate extremists, forcing us all to bow at the left's altar of climate change.

And I am very glad that Ms. Stansbury has admitted to the people here in the people's house, the American people, that the Inflation Reduction Act wasn't about reducing inflation, it was the Green New Deal, a con-game. Title it one way, do another thing, spend money another way. It wasn't to reduce inflation. It was the Green New Deal.

Back home in Colorado, I have seen firsthand the harm leftist policies have created in my communities. Colorado's Western Slope used to have a booming energy production. We used to have about 112 rigs operating on the Western Slope, and now we have 4. Extreme leftist policies lock up land. They have driven away good-paying American jobs and have helped drive up gas prices.

With the stroke of his pen, Joe Biden waged an all-out war against American energy production, propping up Vladimir Putin on Day 1 of his administration, from shutting down the Keystone XL Pipeline, imposing new rules to block pipeline projects, canceling oil and gas leases on millions of acres of land in Alaska and in the Gulf of Mexico, and imposing a moratorium on new Federal oil and gas leases on Federal lands, failing to meet the statutory deadlines for quarterly lease sales, and took countless other anti-energy measures that have contributed to increased gas prices and inflation reaching record levels.

Rather than shutting down production here at home and begging Iran and Venezuela and OPEC to produce energy for us, we should be producing it right here and relying on the American roughneck, the hard-working American roughneck—you are taking food out of their children's mouths to prop up your energy scams. We do it cleaner and better than anyone else.

Thank you, witnesses for being here today. My first question is for you, Ms. Sgamma. Thank you for traveling from Colorado to be with us. You discuss the increased bureaucracy around lease suspensions and permit extensions. What can we in Congress do to

ensure that these agencies spend their time reducing the current APD backlog, which sits at almost 5,000, versus haggling over these paperwork exercises?

Ms. SGAMMA. I appreciate the question. Just specify that an APD term is for 4 years, instead of 2. Because right now, when we try to get an extension, we are having to justify it quarterly. It is a lot of extra paperwork churn, so just make the term 4.

Mrs. BOEBERT. Thank you. Ms. Sgamma, we have heard rumblings that the Bureau of Land Management may suspend approving all APDs due to the 10th Circuit's decision last Friday. In your opinion, does the BLM need to do this, or is there a way to address this decision quickly and allow APD approvals?

Ms. SGAMMA. Yes, it is really easy to find a NEPA deficiency in court. And in this case, the judge found that BLM didn't consider a carbon budget. There is no law passed by Congress that requires a carbon budget. But BLM could quickly explain that no, we didn't consider a carbon budget, because of that reason I just specified, and it is an easy corrective NEPA fix. It shouldn't be affecting any other permits in New Mexico or anywhere else.

Mrs. BOEBERT. That does sound like an easy fix, Ms. Sgamma.

In your testimony, you touch on the 9,000 unused lease permits number used by the Biden administration last year when blaming producers for high energy prices. Could you please explain to us here today why these leases and permits cannot simply be used?

Ms. SGAMMA. Well, you are never going to operate on 100 percent of leases. So, right now we are at a 66 percent utilization rate. And that is a good, high number. So, if there are about 12,000 non-producing leases, there are 23,000 producing leases. So, that is a good mix, just because sometimes economic resources are not found on a particular lease.

When it comes to permits, there are other approvals that are necessary for permits, and we have several held up in court cases. So, there are various reasons that a permit doesn't get used immediately.

Mrs. BOEBERT. Thank you very much, Ms. Sgamma, and thank you so much to the other witnesses for being here.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back. The Chair recognizes the gentleman from California, Mr. Levin, for 5 minutes.

Mr. LEVIN. Thank you, Mr. Chairman. I promise I feel better than I sound. My voice has been gone since last night, but I do genuinely look forward to working with you, finding areas of common ground here in the new Congress. I know that we won't agree on everything, but I do know that there will be things that we can agree on. Thank you for the Arkansas spring water, as well. That did not go unnoticed.

But I really wanted to take a minute and discuss how we can responsibly and sustainably deploy energy on our public lands. I agree that we need to do that. And as we have discussed today, public lands and waters are managed for multiple uses: energy development, mining, recreation, and grazing.

But I believe strongly that we have this opportunity to focus not on more record profits for the oil and gas industry for its own sake, but instead to actually prioritize our public lands for purposes that

spur on the renewable energy development we are going to need in the coming decades. And I would hope that we could all come together to do that.

We have to minimize conflicts. We have to support timely decision making, and we have to engage in very important land use planning as part of a smart siting effort to identify areas of high renewable energy potential and the lowest environmental friction. And this is all bipartisan policy, and it has been since I have been in Congress. We can responsibly improve the permitting process for clean energy and climate solutions.

We can also ensure the meaningful engagement of environmental justice communities. And I share the comments of my friend from New Mexico, and I am applauding your being here. It is why I introduced something called the Public Land Renewable Energy Development Act in the last two Congresses—or PLREDA, for short. It would codify a smart-from-the-start approach to renewable energy development, and it includes measures to facilitate investment in high-quality renewable sources to ensure fair revenue for impacted communities and to minimize impacts to wildlife and to cultural sites.

Mr. Sandberg—and again, forgive my voice—I am grateful for ACP's support on PLREDA. Could you discuss how the legislation would help increase clean energy on public lands, while still maintaining thorough environmental and community protections?

Mr. SANDBERG. Thank you for the question. And as you have outlined, PLREDA is a great first step to help us develop renewables on Federal lands. And as you said, focusing on high-quality resources and low-impact areas. So, mitigating wildlife impacts, cultural sites, those types of things. And I think that this bipartisan effort can yield good results.

As you know, and as we have discussed with your office, since 2015, there has been very little renewable development on Federal lands, while there has been a boom on private lands. So, I think there is a great ability and opportunity to expedite and use those resources on Federal lands.

Mr. LEVIN. And one of the core principles of the legislation is smart-from-the-start planning. Do you agree that is the best planning approach for balancing renewable energy with all the other uses of our public lands? And if so, why?

Mr. SANDBERG. We support many of the provisions in your bill. And as part of that, I think that this permitting process and the processes laid out in PLREDA are a fantastic first step in that process. And we look forward to working with you in this Congress to advance those.

Mr. LEVIN. I appreciate that very much.

And I would just close, Mr. Chairman, by saying we can spend the next 2 years yelling and screaming at each other and focusing on all that we disagree about. I don't think it is the best use of our time. I don't think it is what our constituents expect. And I think it is incumbent on every one of us here to find areas of common ground to try to move the ball forward in a positive way for our country.

With that, I will yield back.

[Pause.]

Mr. LEVIN. Sorry, I caught you in transition.

The CHAIRMAN. The gentleman yields back. The Chair now recognizes the gentleman from Oregon, Mr. Bentz, for 5 minutes.

Mr. BENTZ. Thank you, Mr. Chair, and I thank the witnesses for being here.

I think this question eventually will be for Ms. Sgamma, but let me just go through some language out of a report regarding the \$1 billion that has been thrown at our permitting difficulties. And it seems odd that anybody would dispute that we have permitting difficulties when we threw \$1 billion at it to try to fix it.

But this language out of a report from Bloomberg says the problem isn't going to get fixed by throwing money at it. Mario Loyola, a now senior fellow at Competitive Enterprise Institute, says, "The problem is structural. It is not that we don't have enough people, it is that the permitting process is insane. This little potpourri of odds and ends and these little baskets of money are way too little, way too late."

I guess my first question is, true or false, we have had \$1 billion. It was suggested by the Ranking Member that the problem has been addressed. Has it been addressed in a way that is going to make a difference? I am asking you that question.

Ms. SGAMMA. I mean, as far as throwing money at it, I agree with you, it is about making the parameters of NEPA sane, and focusing it on the task at hand.

Mr. BENTZ. And I understand that under the Trump administration, there were steps taken to try to help, and those were then reversed when the Biden administration took over.

So, what should be done? I know this is the third time you have been asked the question, but—

Ms. SGAMMA. Not a problem, I appreciate the question.

Really focus NEPA on the impacts from the project, not 10 years of studies on air impacts 200 miles away—it has to be the impacts of the project. And it needs to be a tight time frame, and making NEPA documents so that the average person can read them and understand what is in them.

Mr. BENTZ. All right. So, it has long been my thought in watching these processes that they have become politicalized. And, thus, it is no big surprise that there would be a 10-year delay on an oil or fossil fuel development.

But is it your thought that we are going to see less delay when it comes to a green energy project?

Ms. SGAMMA. You would think so, based on how politically favored wind and solar are. But no, they are facing the same kinds of issues we are in the oil and gas industry.

Mr. BENTZ. Now, it is not hugely surprising, given the opportunity to litigate, and delay, and do all the stuff you can do with NEPA, which is a fertile field for we lawyers that choose to engage in those kinds of activities.

Do you think this billion dollars in some fashion can be used to try to head off some of that delay?

I am on the Judiciary Committee. I often think we should be looking at means of reducing the delay opportunities inside civil procedure, for example.

Ms. SGAMMA. I think it would probably take other legislation, because right now judges are just—you can take a 5,000 page NEPA document, and you can find a judge that is going to say, “Oh, wait, this analysis here wasn’t done quite the way it should have been done.” Forget that it is highly complex.

Mr. BENTZ. Let me hop to some of the suggestions that I have read about—what we might do in the alternative to that, which we now have. One is pre-approval of project sites. Another is competitive net-zero grants to states. A third is Federal energy corridors.

Now, Federal energy corridors leads me to calling something out that people seem to ignore, and that is the incredible cost of green energy when it comes to transmission. And I don’t want to say I am amused. I think I am discouraged by the fact that, if we are going to have a clean energy future, it means that our nation is going to be crisscrossed with all kinds of 500 kilowatt power lines. I have had one run through my district back in Oregon. Fifteen years, 15 years to permit. No surprise, nobody wants a 500 KV line going through their backyard.

So, I am just curious, though, why don’t we hear more from the green energy advocates about this cost? Because it is a cost. I guarantee it, when you suddenly turn a bucolic, a rural neighborhood into an industrial transmission site.

So, what are your thoughts there? Do you think that this Federal energy corridors is a good idea?

Ms. SGAMMA. I am not as familiar with that, because I focus, my producers are at just the wellhead. But I think Mr. Sandberg maybe could answer that question better than I.

Mr. BENTZ. Mr. Sandberg, we have 20 seconds. You have 20 seconds. You have 15.

Mr. SANDBERG. Fourteen, thirteen.

[Laughter.]

Mr. SANDBERG. I think that transmission build-out is important not just to clean energy, but to all generation sources. I think we need more of it.

I do agree that there are common-sense reforms that can be part of this package that can expedite the permitting of those projects.

Mr. BENTZ. Thank you. I yield back.

The CHAIRMAN. The gentleman yields back. The Chair recognizes the gentlelady from Florida.

Mrs. Luna, you are recognized for 5 minutes.

Mrs. LUNA. Thank you, Chairman.

The Biden administration has launched a war on energy, which really means a war on the resources that Americans need to live productive, meaningful lives. We need to produce more domestic oil, natural gas, and nuclear energy. These natural resources are the bounty of our nation, and should be responsibly extracted for the benefit of the American people. Increased production keeps energy costs low, supports good-paying jobs, and advances American energy independence from foreign nations, and strengthens our national security.

Unfortunately, since Day 1, President Biden has chosen to punish Americans, first by revoking the permit for the Keystone Pipeline, which could have supplied the United States with over 830,000 barrels of oil per day.

According to the Bureau of Land Management, there are currently 4,609 permits for drilling on Federal lands that await this Administration’s approval. Many of these can be approved today, allowing companies to move forward with oil development.

In addition, there are 8,295 outstanding approved permits that are unable to be developed due to the Administration’s regulatory framework that has constrained oil and gas production, which is very telling, based on his speech last night.

Maximizing energy production in America will limit the need to import from other nations, reduce high energy costs, create jobs domestically, and, in my opinion, protect the environment.

Mr. Chairman, I ask unanimous consent to insert these graphics into the record.

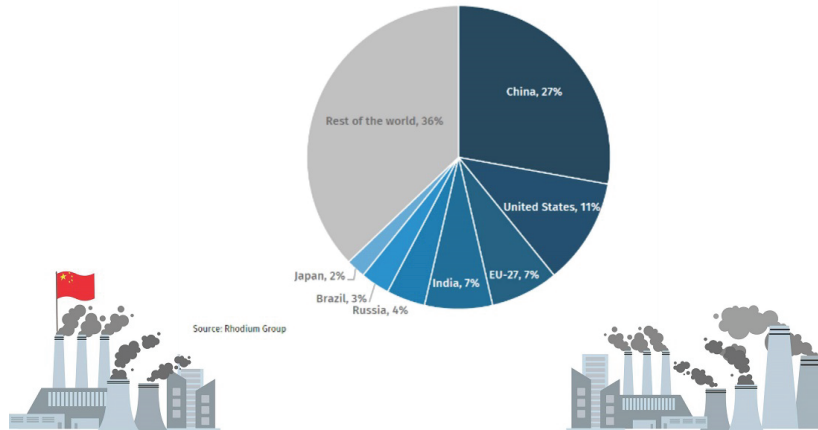
The CHAIRMAN. Without objection, so ordered.

[The information follows:]

Posters Submitted at the Hearing by Rep. Luna

China single largest producer of CO2 emissions

FIGURE 3
2021 net GHG emissions from the world's largest emitters
Percent share of global total



countries with foreign policy that are destroying the planet, I think that it is very applicable to this Committee. So, please answer the question.

Ms. JOHNSON. It is not a question that I feel capable of answering.

Mrs. LUNA. According to the chart behind me, since you don't want to comply, China is destroying our environment. Our current foreign policy is enabling China. And it is clear that, with this Administration, that those who are advocating for climate change are failing to acknowledge that they are empowering, through foreign policy and through an administration that is limiting our ability here in the United States to produce clean energy, they are empowering a country that is going to destroy us all.

Thank you, Chairman. I yield my time.

The CHAIRMAN. The gentlelady yields back. The Chair now recognizes the gentlelady from Wyoming.

Ms. Hageman, you are recognized for 5 minutes.

Ms. HAGEMAN. Thank you, and thank you to all of you for being here today.

Ms. Sgamma, thank you for your testimony today and for representing our western states. I want to focus on one specific part of your written testimony, because I think it carries the most weight.

You state that when the Federal regulation and process becomes unbalanced with the goal of producing the energy the Interior Department manages on behalf of all Americans, then we have a situation where the Federal Government is purposely preventing Federal production, resulting in higher prices for consumers, more foreign imports, less energy security, et cetera.

What you are describing is energy poverty, energy poverty imposed on the American people by a burdensome Federal structure which Joe Biden has weaponized. Nearly half of Wyoming is owned by the Federal Government, as is over 60 percent of its mineral estate. When Joe Biden weaponizes his control of Federal lands, he is targeting Wyoming and the Americans we serve.

Wyoming produces 13 times more energy than it consumes and is the second biggest net energy supplier among the 50 states. I think one of the biggest disconnects for Washington, DC, and Americans not from the West, is to truly understand how substantial the Federal presence in our community is, and the impact it has on developing the resources we have, which the nation so relies upon.

Americans are facing the most expensive heating bills in 25 years. Food prices are up 10 percent from the previous year. Gas prices in November 2022 were the highest ever, and nearly 34 percent of American households reduced or skipped basic expenses to pay energy bills. Do you have similar statistics for the cost of Biden administration's policies on energy producers?

Ms. SGAMMA. Well, I think there was a study done that showed we would be producing 2 to 3 million more barrels a day in the United States now if President Trump's policies had been followed, and not President Biden's. And that equates to us having to send \$100 billion overseas so that we can get energy to make up for that difference. So, it is much better to produce it here.

And if you look at where oil and gas is produced in Wyoming and across the West, it is certainly in remote areas, not near disadvantaged communities. So, we also have that added benefit in Wyoming.

Ms. HAGEMAN. Thank you. And would you agree that this has forced energy poverty on the American people and producers?

Ms. SGAMMA. Well, I think if these goals are ultimately brought to their conclusion, it would result in more energy scarcity.

People are trying to electrify everything and get rid of natural gas. And if you take that policy to its conclusion, then when the wind doesn't blow and the sun doesn't shine, we don't have electricity. So, that is scarcity. That is not being able to run your ICU, that is not being able to turn the lights on. So, that has a lot of ramifications beyond, if these policies were taken to the ultimate conclusion. I believe that Americans are not going to let that happen, though.

Ms. HAGEMAN. Well, the reality is that energy security is national security. Affordable energy is the key to our prosperity. Affordable energy is key to affordable housing and affordable food production.

Increasing the cost of energy affects our poorer communities the most. It is, in reality, a terribly regressive tax imposed by those who can most easily afford it, and who don't suffer its consequences.

The bottom line for me, I believe that there is a special place in hell for those people who push policies that are intended to increase the cost of housing, food, and energy.

I yield back.

The CHAIRMAN. Did the gentlelady yield back?

Ms. HAGEMAN. Yes, I yield back.

The CHAIRMAN. The gentlelady yields back. The Chair recognizes the gentleman from California, Mr. LaMalfa, for 5 minutes.

Mr. LAMALFA. Thank you, Mr. Chairman. As a Committee hop here, I will go from Waters of the United States regulations over in the Transportation and Infrastructure Committee to figuring out what to do about NEPA. It seems it is just about every angle possible to stop people from doing what they need to do, even though they know how to do it ecologically soundly, pretty much, these days.

So, let me launch into a thought here on—I know we are covering very good ground on energy, and on mineral extraction and such, extremely important. I would also like to hit a related area, at least to me as well, in Northern California, our forest management and what NEPA's effect is on that.

So, let me maybe pose this to Dana Johnson here, as our witness on NEPA being used as a tool, basically, to delay very important Forest Service thinning projects, timber harvest, things that are important for the local economy, local forest health. Simple, simple things in a forested area of replacing a pipe, replacing a culvert so that a forest road could be maintained and utilized for many purposes.

When you look at that, on the NEPA being required for a culvert and every simple thing, what do you think are the real consequences for these delays on the people of my district that have

just suffered a million-acre fire in 2021, and the Camp fire, which destroyed the town of Paradise in 2018, the Bear fire, nearly adjacent to Paradise, that destroyed two very small mountain communities?

When we are talking about the reforms that were proposed back in 2020, is NEPA in the right place now? Were 2020-type of reforms reasonable in the context of what we are doing to our forests in the mountain communities?

Ms. JOHNSON. My area of expertise is not in forestry and mountain communities, but I will broadly say that a NEPA that does not provide opportunity for public comment periods, that doesn't proactively consider alternatives in environments, doesn't consider cumulative impacts, doesn't consult with those who are impacted is a NEPA that does not work for people and does not work for communities.

Mr. LAMALFA. Well, it seems the people that are wanting this consultation aren't living in the communities that are burning down upon the people's heads. They are like Greenville, and Canyon Dam, and Paradise, and Magalia, Yankee Hill. They seem to come from somewhere else. They bring lawyers in from the coast and stop decent timber harvest projects or, as more pertinent to the topic here as well, that mineral extraction we are going to need in this country to keep up with the mandates that are coming in for replacing all types of fuel with electricity. Electricity stoves being the latest one, getting rid of all manner of yard tools, and such.

So, is NEPA going to be helpful in having the voices of so many overwhelming the rural voices that live in these areas where the mineral is extracted, where the timber is needing to be thinned?

Ms. JOHNSON. NEPA is a place-based policy. It takes a look at, it assesses a project in the place where it will be implemented.

I can't speak to where people are coming from in defense of that. But if applied appropriately, NEPA would take into account the people living in the rural communities that you are uplifting.

Mr. LAMALFA. Yes, so frequently it does not. It runs over them.

For Kathleen Sgamma, back to the energy grid, and everything involves energy. It is so important. It is the cornerstone. It is why the cost of everything has gone up so much since we have stopped developing energy, and energy costs have skyrocketed so much for gasoline, diesel, natural gas, even electricity as they try to take out hydroelectric dams in my district—one of them being in Mr. Bentz's district—and getting rid of the supply of electricity.

From your perspective, has the Biden administration found any way to be helpful in energy production or the manufacturing?

Ms. SGAMMA. We have seen purposeful obstacles put in place of oil and natural gas development. I would guess they are being helpful to wind and solar.

Mr. LAMALFA. Yes, I guess it is hard to find.

Well, Mr. Chairman, I have already run myself out of time, so I will have to hop to it a different time. Thank you, sir.

The CHAIRMAN. The gentleman yields back his 1 second. The Chair recognizes the Ranking Member for 5 minutes, Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. And thank you to all the witnesses for participating today.

Ms. Sgamma, just a quick question. Do you see in the portfolio of Unleashing America's Energy and Mineral Potential, per the agenda for this meeting, do you see as part of that portfolio, unleashing portfolio, do you see royalty relief for gas and oil as one of those items that needs to be considered by Congress?

Ms. SGAMMA. We believe in paying a fair share of royalties, absolutely. We pay royalties. We are very proud to provide that royalty back to the American taxpayer.

Mr. GRIJALVA. So, relief is not on the agenda from the—

Ms. SGAMMA. No, no.

Mr. GRIJALVA. That is good to know, because that will be one less item that we have to deal with.

The other issue I was going to ask is, Ms. Johnson—and thank you, and good to see you again. We have talked a lot about, and the questions that have been directed at you, and I think you have more than informed all of us as to not only react, but the issue of environmental justice, and that it must be front and center. My question is that all the impacts—health, lack of participation, systemic land use decision that leads to discriminatory practices at other levels for the communities that you represent and you speak for.

My question is the economic issue. It has been brought up in every other conversation here. But let's talk about the economic issue and your experience relative to the communities that we are talking about and that you represent, frontline communities. What is that economic reality for those neighborhoods and those communities?

Ms. JOHNSON. Yes, I think that the economic reality is that we have higher health costs in those communities. We see reduced number of school days and work days associated with health impacts. We see environmental degradation that leads to lower property values. We see people not making a wage that is appropriate and sustainable.

But on the flip side of that, I think that we see positive economic opportunity coming in this conversation that we are having about how do we ensure that we have a sustainable, affordable, accessible, robust energy economy. To do that does not mean that we forsake projects, whether they are traditional or clean—I am sorry, environmental processes, whether we are considering a traditional or a clean energy project.

Again, as was mentioned, there are resources in the Inflation Reduction Act that we believe will provide staffing, that will provide opportunities to modernize and streamline our system and processes, and that we can get energy economic opportunities deployed in an equitable and just way at a proper pace, because we have invested in it in a robust way during the previous legislative session.

Mr. GRIJALVA. Thank you very much.

Mr. Sandberg, I just need a point of clarification. You said that permitting reform should not mean undercutting our environmental standards, and I agree with you on that.

But also in your testimony, speaking in support of TAP, America's energy act, you support that piece of legislation. But the bill expressly undercuts our most fundamental environmental

standards that is NEPA, the National Environmental Policy Act. It weakens requirements for assessing environmental and public health impacts in many ways. And even worse, it would exempt numerous energy projects from the NEPA review.

So, while I agree with your statement, as I said earlier, I would respectfully want clarification. Do you urge a closer look, the contradiction in supporting what is essentially the gutting of NEPA in one piece of legislation, and the comments that you made.

Mr. SANDBERG. Thank you for the question. I think there are ways to make common-sense reforms to NEPA, and I think that, working with the Congress, we have faith that the Congress can do that.

And I think that the TAP Act is one example. There are others out there that, working with you and others, we can find a way to streamline the process without undercutting, as you said, our bedrock environmental statutes.

Mr. GRIJALVA. But according to that 2020 study, that was 1 out of every 450 NEPA reviews are ever challenged in court. Do you consider that? Do you consider that a factor in—I know that it has been exaggerated to the point that everything ends up in court, and that NEPA is a tool to slow everything down, which is not true.

But 1 out of every 450, you consider that too much? Excessive?

Mr. SANDBERG. I think to meet our shared goals of accelerating clean energy deployment and the economic and environmental benefits that will come from that, that there are some things that need to happen to streamline the process for permitting to reach our shared goals.

Mr. GRIJALVA. Does that include denying people their redress in court?

Mr. SANDBERG. Pardon?

Mr. GRIJALVA. Does that include denying people redress in court?

Mr. SANDBERG. No, sir.

Mr. GRIJALVA. Which is their right.

Mr. SANDBERG. It does not.

Mr. GRIJALVA. I yield back.

The CHAIRMAN. The gentleman's time has expired. The Chair now recognizes the gentleman from Idaho, Mr. Fulcher, for 5 minutes.

Mr. FULCHER. Thank you, Mr. Chairman.

And to the panel, thank you for being here and for your testimony and your input. You probably know this, but just in case not, please don't mistake our coming and going as a rudeness or lack of interest. It is called the dueling Committees sometimes pop up on the schedule. So, I just wanted to clarify that, and let you know you are appreciated.

A question for Ms. Sgamma.

Ms. Sgamma, in your written testimony, you talked about an onslaught of regulatory over-reach coming. You may have already discussed this, but I am going to ask you to touch on that again. What is coming?

Personally, I think there is too much now. But what should we be watching for?

Ms. SGAMMA. Yes, I probably should have used a different tense.

Yes, absolutely. We are facing duplicate rulemakings right now. We just finished one up from BLM, and now one with EPA.

The financial regulators are—we can't keep up with all that they are throwing at the industry meant to deny financing to oil and natural gas projects from departmental labors, SEC, Department of Treasury. All kinds of regulations are coming out. Nobody can even keep up with it.

Mr. FULCHER. OK, so Committee on Natural Resources, if you were king for a day and could tell us to focus in on one particular area as a priority, what would it be?

Ms. SGAMMA. NEPA.

Mr. FULCHER. OK. Well, that is a good setup for the next question, because I have one for Mr. Sandberg in regard to NEPA.

I am from the state of Idaho, and if you know anything about our natural resource base there, you know that we are no stranger to NEPA. And you have been speaking about some potential changes to that. I am going to go down a similar path with you.

First of all, where there are cumbersome components of NEPA, do you see the impact of that to be more negative from a cost standpoint or a time standpoint, first of all?

And then same question. King for a day, you can focus in on one particular area to improve it. What would it be?

So, two-point question: cost or time; and what is the priority that we should be going after?

Mr. SANDBERG. Well, I thank you for the question. I think it is both. I think it has a cost component, it has a time component, neither of which are helpful to deployment of clean energy.

So, as I lead into the second part of your question, if I was king for a day, I think we would just need to work on shortening, I think, if we could shorten timelines, that would be a good first step.

Mr. FULCHER. Litigation? Do you see litigation as an issue? And if so, could you comment on that?

Mr. SANDBERG. I don't have a comment on litigation.

Mr. FULCHER. OK, right.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman yields back. The Chair recognizes the gentleman from Alabama, Mr. Carl, for 5 minutes.

Mr. CARL. Thank you, Mr. Chairman. I appreciate that.

Mr.—is it Milto?

Mr. MILITO. Milito.

Mr. CARL. Milito, all right. I am from South Alabama, so you have to work with me here a little bit.

As you know, the Biden administration has canceled the three remaining leases in the Gulf, lease sales on the offshore 5-year plan that expired June 30, 2022. The Bureau of Ocean Energy Management only resumed planning sales at the direction of Congress in the Inflation Reduction Act. BOEM has so far failed to publish any new 5-year plan, leaving the United States without a long-term plan for oil and gas production in the Gulf of Mexico, which supplies over 20 percent of our oil reserves. Twenty percent is in limbo right here.

Why is oil and natural gas production in the Gulf of Mexico critical to our ability to meet the growing demand?

And why is it necessary to continue planning for the future with regular lease sales in the Gulf?

Mr. MILITO. There are many reasons why production from the Gulf of Mexico is so important to Americans.

First of all, it is a reliable supply of energy. We need to use oil and gas in our economy. The global economy requires it. If you look back in 2021, we were still importing oil from Russia, and we hit actually 500,000 barrels a day of imports from Russia in August 2021.

On the other hand, we have the Gulf of Mexico, which is a crown jewel of energy production, and we have an opportunity to increase production from 1.8 million barrels up to 2.4 million barrels of production if we have the opportunity to move forward with leasing and permitting.

Further, the Gulf of Mexico provides high-paying jobs. These jobs are throughout the country, mostly along the Gulf Coast, but these are very high-paying jobs, and they are not just college degree jobs. These are blue collar jobs that are available for communities along the Gulf Coast.

Another thing I would like to add is that we have been supportive of revenue sharing. And if you look back at the Gulf of Mexico Energy Security Act, which was passed in 2006, that law provided the funding for the Land and Water Conservation Fund to come from offshore oil and gas development. So, we have paid, through offshore oil and gas development in the Gulf, over \$5 billion for parks, wildlife, recreational projects throughout the country, and that is over 40,000 projects.

Also, as part of that fund there is what is called the—what is it called? It is a program that is designed to send money into under-privileged and urban areas for parks and recreation.

Mr. CARL. Is that part of the GOMESA money?

Mr. MILITO. It is part of the GOMESA money. There have been tens of millions of dollars annually now going to fund parks and recreation and wildlife programs for under-privileged communities and urban areas throughout the country.

So, we have all these benefits, and this is a region that provides among the lowest carbon barrels of oil in the world. All U.S. production provides better oil when it comes to low-carbon intensity, but the Gulf of Mexico really provides the best. So, if we are going to get it, let's get it from here, where we know we can secure these benefits, rather than seeing that production go to other parts of the world, which harms our national security.

Mr. CARL. I am glad you touched on the GOMESA money. I was a county commissioner for 8 years, and we depended on that GOMESA money. And where we actually used it was restoring shorelines, oyster beds, all these environmental projects that were created over time, and we were able to restore them. We actually purchased property. We have some stuff I am thinking down on Dolphin Islands Park and Recreation. That is for the public to use. All of this is publicly used.

So, when you start talking about reducing the output in the Gulf, you are talking about reducing that GOMESA money, which affects Mobile and Baldwin County—I will speak for Alabama—it reduces money in both of those.

So, it just amazes me how we will buy Russian oil, which is much dirtier, and it has to cost more to actually get it here, because we have oil right at our back door, as well as natural gas. We have a tremendous amount of natural gas off the Alabama shores. So, it is frustrating for me, as being a representative from the Gulf Coast, to see what has happened over the last 2 years.

I mean, we have so many rules and regulations. Everybody says, well, there are 7,000 leases. That is hogwash. There are 7,000 leases and 699,000—whatever the breakdown, the numbers, it is all tied up in permit. I mean, it is an environmental nightmare, trying to get through all of this.

But, anyway, I appreciate your comments. I appreciate you bringing up GOMESA. You kind of hit the softball for me on that one.

Mr. MILITO. Thank you.

Mr. CARL. Mr. Chair, I return back. Thank you.

The CHAIRMAN. The gentleman yields back. The Chair now recognizes the gentlelady from Virginia, Mrs. Kiggans.

You are recognized for 5 minutes.

Mrs. KIGGANS. Thank you, Mr. Chair.

I represent Virginia, the eastern shore, Virginia Beach, and a lot of the Chesapeake Bay region. Virginians know how to be good stewards of the environment without sacrificing jobs or hurting our economy. Not only is the Chesapeake Bay watershed home to roughly 3,600 species of plants and animals, but also provides countless economic and recreational opportunities, generating \$33 billion each year.

Mr. Milito and Mr. Sandberg, the Bureau of Ocean Energy Management recently announced the draft environmental impact statement for an offshore wind project off the coast of Virginia Beach, creating the potential for new job opportunities and economic growth for Virginians.

The wind industry is growing along the Atlantic coast and provides opportunities to diversify our energy production. But Virginia's fishing community and tourism economy are also crucial to our economic well-being, and critical military training exercises take place off our coastline. How is the wind industry engaging with and accommodating concerns of these stakeholders to ensure balanced access to the Outer Continental Shelf?

Mr. MILITO. Considering the balancing needs of all the different offshore industries and stakeholders is very important to our industry.

I do like to point to the Gulf of Mexico experience, because we have been developing energy resources there for decades, in a compatible way with military, tourism, commercial and recreational fishing. So, we have the experience, we have been able to do that very well, and we have seen that also in the development of the wind industry throughout Europe.

So, the process that we have seen as it has moved forward is a collaborative process. It is through NEPA, and it is through the Outer Continental Shelf Lands Act, where all the different stakeholders are able to weigh in and provide their thoughts in a deliberative way to make sure that we are allowing all users to be able

to move forward with their activities with as little interruption as possible.

And one thing I would like to point to is the industry working together to find a way to separate the wind turbines to the greatest extent possible, so that there is enough space for all users, but we are also able to build up a wind farm that will provide the wind capacity to power the grid at shoreside.

So, there is a lot that goes into it. The companies that are moving forward with developing these projects work closely with the communities, with the State leaders, with the Federal family to make sure that we are doing everything we can to address all the competing needs.

Mrs. KIGGANS. How is the regulatory process under NEPA impacting timelines for offshore wind leasing and construction?

And what can this Committee do better to better the certainty in the NEPA process?

Mr. MILITO. I think a lot of this is going to come down to making sure we do have guiderails on the NEPA analysis to make sure that we don't have a process that is never-ending, and that can ultimately always lead to a challenge in court and, depending on the judge, strike down a project or delay it and send it back.

I will say that there are already multiple lawsuits filed against the early mover wind projects in the Atlantic, multiple, multiple lawsuits. So, there is a lot of concern about that, because those lawsuits could have an impact on the ones that are in line behind them, depending upon how they shake out.

So, we need to make sure that the agencies have a framework with some guiderails, and we need to also look at the remedies available to the court to make sure that we are not stifling investment and putting companies in a position to want to invest elsewhere in the world, rather than here.

Mrs. KIGGANS. Thank you.

And Ms. Sgamma, while I recognize the importance of the offshore wind industry to my district and other coastal communities, it does nothing to financially support Federal conservation efforts, unlike the oil and gas industry.

As you know, the Great American Outdoors Act directs roughly \$1.9 billion in energy development royalties to conservation efforts across the country, including national parks and wildlife refuges, as well as permanently funding the Land and Water Conservation Fund at \$900 million annually. In fact, 94 percent of Federal conservation efforts are funded exclusively by royalties from oil and gas industry leases and production.

So, with the Biden administration slowing the permitting process, limiting production leases, and over-regulating the oil and gas industry, what are the expected impacts on conservation efforts over the next decade?

And how can we ensure that funding remains available for the conservation of our coastal communities?

Ms. SGAMMA. I really appreciate that, because I think that is something that does get lost, is if we took oil and natural gas development to zero on Federal lands, that would take away that \$2.8 billion—Federal Lands and Waters—that goes into conservation with no replacement for it, because right now wind provides

something, I think it provided something like \$5 million, whereas we provide billions of dollars.

So, if you took away oil and gas, that conservation funding dries up.

Mrs. KIGGANS. So, there would be none, pretty much, for our coastal communities for conservation efforts.

Ms. SGAMMA. I mean, if these policies were ultimately taken to their conclusion, which I don't really see happening, but yes, if you didn't continue to produce more on Federal lands and waters, eventually that money would go to zero.

Mrs. KIGGANS. Thank you. Thank you very much.

I yield back.

The CHAIRMAN. The gentlelady's time has expired. I now recognize myself for 5 minutes.

I again want to thank the witnesses for your testimony today, and I want to circle back kind of to where I started with the chart behind me.

[Chart.]

The CHAIRMAN. We face a challenge here, in the United States. The world faces a challenge, and it goes back to this insatiable appetite for energy.

And the title of today's hearing is, "Unleashing Energy and Mineral Potential," and we are talking about that potential that we have here in the United States. And probably to the surprise of our colleagues on the other side of the aisle, it is not all fossil fuels that are represented at the witness table today. We have a full representation of the many kinds of energy that are available and that need to be developed here in the United States.

And as I have listened here and I think about the purpose of this hearing, the purpose of the hearing is to inform the Committee as we prepare to route legislation or to have oversight to address the issues that need to be addressed. And the word that came out probably more than any other word from both sides of the aisle was "NEPA." It came out with all the witnesses.

So, we are talking about regulatory reform. And it is hard to talk about energy development, whether you are talking about traditional energy or energy of the future, without talking about the regulatory environment and the potential need to reform that regulatory environment.

We have data that shows that the time to get a permit ebbs and flows. It was up close to 200 days, on average, under the Obama administration. It got down to as low as 94 days, on average, in the Trump administration. Nothing changed in the bedrock environmental laws that we talk about. It sounds more like it is a will to do the job that these Federal employees are hired to do, and that is to permit.

I come from a background of doing engineering projects. So, I was on the other side of permitting issues, and I know how frustrating it can be when you are doing everything possible to follow the law, to make sure that the public interest is protected, that the environment is protected, and yet you are totally bogged down in the slowness of the environmental permitting process.

As we look at this, it is not about permitting for extractive industries like the fossil fuel industry. It is not about just permitting for

renewable. It is about creating a process that allows America to win.

And I want to ask the two witnesses who represent both fossil fuel, traditional energy, and renewable energy, do you see any kind of discrimination in the permitting process based on the type of project that is being permitted?

Mr. MILITO. No, I do not, sir. I believe that the impediments to energy development through some of these laws are being applied to every energy source out there.

Mr. SANDBERG. I would agree with that.

The CHAIRMAN. Ms. Sgamma, do you think that the fossil fuel industry is discriminated against in any way in the permitting process?

Ms. SGAMMA. Well, we are certainly targeted, that is for sure. I don't have a perspective, because I don't try to permit wind and solar.

The CHAIRMAN. And the point has been made several times in the hearing today that the demand for energy is not going down, it is going up, and that energy has to come from somewhere. And we know that, if we don't produce it here in the United States, then the market is going to cause us to import that energy. And we are going to have another hearing on minerals, which gets all into the renewable energy component of it. If we don't have the ability to produce the products to do renewable energy here in the United States, we are going to import that, which means we are exporting wealth.

So, as to inform the Committee—and Ms. Johnson, I appreciate your testimony on how we don't need to do away with NEPA, maybe NEPA needs to change, and there are considerations that need to be taken into that, but I don't think anybody in the hearing said we need to file a bill to do away with NEPA. As a matter of fact, Mrs. Dingell, whose husband wrote NEPA, she was one of the first ones to say the law needs to be updated.

So, we will start with Ms. Sgamma and go across the witness table. What is the one thing you would say the Committee needs to focus on in regulatory reform?

Ms. SGAMMA. Like I said, NEPA. But I think I would suggest looking at the litigation angle, and working to give judges guidance that endless NEPA and endless analysis is not the intent of NEPA.

The CHAIRMAN. Could you be just a little more specific on NEPA? Is it a timing process? Are there flaws in the structure of NEPA that we need to change, or what is it specifically about NEPA that could make it work better?

Ms. SGAMMA. Well, when you look at litigation it is really easy to find some analysis in a 5,000-page document that could have been done better. And it is supposed to be done on the best available information, not waiting years and years for more information to come in, or requiring the project proponent to go off and do a science project and come back 10 years later.

So, I would say constraining it to what the focus is of the impacts on the ground of that project, not hypothetical impacts 10 years in the future.

The CHAIRMAN. Thank you.

Ms. Johnson?

Ms. JOHNSON. Thank you. I would say we need to consider cumulative impact. If it was reasonable for us to consider it in the 1970s, when NEPA was established or signed into law, industry growth and expansion make these considerations all the more pressing today.

Again, it is a false narrative for us to suggest that cumulative impact analysis is too costly, that it takes too much time, when we have more tools and data available today than we have ever had before. And to fail to consider existing hazards along with potentially new ones will turn a blind eye to those who have a history, a legacy of being harmed by our energy policies and practices.

The CHAIRMAN. So, your position is that we need to add more to NEPA. Is there anything you—

Ms. JOHNSON. Cumulative impact analysis is a part of the environmental assessment process, and I think we need to preserve it is what I am suggesting.

The CHAIRMAN. So, that is an administrative rule that was not in the original NEPA document. Are you saying we should codify that?

Ms. JOHNSON. To do an environmental assessment to consider what the impact of a project in coordination with projects that are already on the ground is a core part of NEPA that is already there, it is already a part of the law. We just need to be sure we are doing it.

The CHAIRMAN. Thank you.

Mr. Sandberg?

Mr. SANDBERG. Thank you, Mr. Chairman. I think an important and a great first step would just be time-bounding some of the reviews. And I think that is a good place to start.

I think kind of really refocusing on purpose and need, and that the review kind of centers on that is another important step. But I would say for us, really, that certainty around timing is critical.

The CHAIRMAN. Thank you.

Mr. Milito?

Mr. MILITO. Thank you, Mr. Chairman. I would encourage the Committee to look more broadly and outside the box a little bit, and see if there are ways we can get to yes faster.

We have a tendency in the Federal bureaucracy to look at things in silos. It is oil and gas, it is wind, it is carbon capture and storage. We have companies that are very innovative and looking to deploy large amounts of capital to build these energy projects. And an energy project might include oil and gas offshore, it might include wind, it might include carbon capture and storage, and it might include hydrogen. It might include all those as part of a major project that can help the United States lead in decarbonization efforts, but also provide the energy we need today based on the foundational energy sources our economy uses.

The problem is we don't have a system set up to do something like that. You either have an oil and gas project, or a wind project, or a CCS project, or a hydrogen project. So, we should work together to find ways to get to yes faster. Because, if you look in Europe, they can look at a project like that and do it much quicker in terms of getting that approved. You have 70 CCS projects that are under development right now in Europe, a lot of those offshore.

We are not at that point yet, because we have a bureaucracy that kind of holds things up.

The CHAIRMAN. That is a good point, to streamline the permitting for new technologies. And I am constantly encouraged by new technologies. When you talk about carbon capture, there is now technology to strip the carbon off of the carbon dioxide, release the oxygen, put the carbon in a slurry, inject it into the ground, and it solidifies into a rock. That is real carbon capture and sequestration. And we should be pushing the innovation, and pushing the permitting process to be able to get new technology like that online sooner than later.

Again, I thank the witnesses. This concludes our first panel. And we are going to take a 10-minute recess. We will start back at about a quarter til with the second panel. That will give us time to switch out the witness table.

[Recess.]

The CHAIRMAN. The Committee will come to order. I will now introduce our witnesses from Panel II.

First, we have Mr. Michael Holloman, Commercial Director and Member of the Board of U.S. Strategic Minerals from St Louis, Missouri.

We have Mr. Reno Franklin, Chairman of the Kashia Band of Pomo Indians. He is a member of the Advisory Council on Historic Preservation from Santa Rosa, California.

Mr. Matthew Adams, Vice President and Senior Tax Counsel from the Navajo Transitional Energy Company from Broomfield, Colorado.

And I will yield to Representative John Curtis for 30 seconds to introduce our final witness, Mr. Brian Somers, President of the Utah Mining Association.

Mr. CURTIS. Thank you, Mr. Chairman. It is a pleasure to introduce a good friend of mine, the President of the Utah Mining Association, Brian Somers, former Managing Director of Utah Science, Technology, and Research Initiative; former Deputy Director, Utah Department of Heritage and Arts; and also worked for Governor Herbert and, I think of interest to many of us, former Congresswoman Mia Love.

Brian, thanks for being here with us today. We look forward to your testimony.

The CHAIRMAN. We will now hear testimony from our witnesses on Panel II.

The Chair recognizes Mr. Holloman to testify for 5 minutes.

STATEMENT OF MICHAEL HOLLOWAN II, COMMERCIAL DIRECTOR AND MEMBER OF THE BOARD, U.S. STRATEGIC METALS, ST. LOUIS, MISSOURI

Mr. HOLLOWAN. Thank you, Chairman Westerman, and thank you, Ranking Member Grijalva and the rest of the Committee. Thank you for having me here to testify on unleashing America's energy and mineral potential.

My name is Mike Holloman. I am here representing U.S. Strategic Metals, in conjunction with National Mining Association. Our company, U.S. Strategic Metals, is the only primary cobalt, nickel, and nickel producer and processor and, importantly,

recycler in North America. We are a green battery minerals platform that is working hard to close the final link in the supply chain loop that will lead us to raw materials independence as we work to meet the growing demand for renewable energy batteries and other high-tech applications.

The timing of this discussion could not be better. America has, for all intents and purposes, leashed the energy industry. I have been all around the world. I have watched it for the last 20 years. We have effectively outsourced mining and processing. Why is this important? Because, as it stands right now, we face a skyrocketing demand for renewable energy, and we do not control our own destiny as a nation for the raw materials needed to make this happen.

I won't get into my background, but I can tell you that when the power of the lithium ion battery was first realized, I watched our largest, most intelligent geopolitical rival start becoming interested in mining and processing of raw materials needed to make those batteries. I watched as American companies and the U.S. government completely disappeared from the critical raw materials arena, content to receive last-mile, just-in-time deliveries of the finished goods that were mined, processed, and upgraded everywhere but America, in countries that care a lot less about the environment than we do, in countries that care a lot less about the health and safety of employees than we do, and in countries that you all know turn a blind eye to child labor and worse.

And yet, here we are, everyone using a laptop, everyone using an iPhone, many of us driving electric cars, all of which contain hard-to-trace lithium ion battery metals that make those machines work. And a lot of the technology for this, for these batteries which are changing the world, is invented by America. American companies invented this technology, and yet we don't mine or process any of the materials here. It is really a sad state of affairs.

Hopefully, I will be able to get into the way our big rival has gotten into this. I spent a bunch of time in Africa watching them take over the natural resources there. But I would like to address the elephant in the room. The elephant in the room is China.

My former boss, a year ago, told the *Financial Times*, "If tomorrow China wanted to sell us cars instead of batteries, they could do it." Let that sink in. If tomorrow the Chinese wanted to sell us just the batteries and the battery products, we would be buying XPeng, NIO, BYD cars, Ford, GM, Tesla—all of these great American electric vehicle companies would not be able to get the raw material supplies. So, this is a conversation about national security, as well as the environment.

I could go on forever, but I hope most of you will read my comments. I have a lot to say in here. We can do it in America. We are doing it. U.S. Strategic Metals is mining in a green way, in a clean way. We are also processing low-carbon, low-emission American ingenuity, American technology, hydrometallurgical processing. We are not using pyrometallurgical processing. Our mine is green and clean. We pay high wages.

And I would just like to say that the point is we can do this mining and this processing here in America. We can do it the right way. But we need help. We need help from the government. We

need help from you all to make sure that we have an ability to do it.

The time to act, the best time was yesterday. The second best time to act is today.

And I would just like to thank you for your time, and hopefully we can dive into some of the issues that we face in the question-and-answer.

I yield back my time. Thank you, sir.

[The prepared statement of Mr. Holloman follows:]

PREPARED STATEMENT OF MICHAEL R. HOLLON II, COMMERCIAL DIRECTOR/
MEMBER OF THE BOARD, UNITED STATES STRATEGIC METALS (USSM)

To the House Committee on Natural Resources,

I would like to thank the Committee Members very much for inviting me to address them here today at this hearing on "Unleashing Americas Energy and Mineral Potential".

My name is Mike Hollomon and I am here representing US Strategic Metals in conjunction with our partner organization the National Mining Association.

Our Company US Strategic Metals is the only Primary Cobalt and Nickel producer, processor and, importantly, recycler in North America.

We are a green battery minerals platform that is working hard to close the final link in the supply chain loop that will lead us to Raw Materials independence as we work to meet the growing demand for renewable energy, batteries and other high tech applications.

It is my considered opinion that the importance and the timing of this discussion cannot be overstated.

America has for all intents and purposes, leashed its Energy and Mineral potential for the last 20 years at least.

We have effectively outsourced mining and processing.

Why is this important? Because as it stands right now, as we face skyrocketing demand for renewable energy, we do not control our own destiny as a Nation.

First, a little bit about my background and why do I have this insight, I come from a military family, my father was a US Air Force colonel who fought for our country and spent years in the Pentagon. I went to High School right down the road at Lake Braddock Secondary School in Fairfax County. I travelled the world as a military kid and it led me to travel the world in business as I became a commodities trader for the worlds largest diversified commodities group. Through my 26 years in the commodities trade I had a front row seat to watch the movements of the Critical Metals and Minerals that make the world go around.

When the power of the Lithium Ion battery was first realized and the Electric Vehicle genie was released from the bottle, I watched as our largest, most intelligent geopolitical rival started to become interested in mining and processing of the raw materials needed to make these batteries. All while America was closing mines and closing smelters.

I watched as American Companies and the US Government as well, completely disappeared from the critical raw materials arena. Content to receive last mile, just in time deliveries of the finished goods that were mined, processed and upgraded everywhere BUT America. In countries that care a lot less about the environment than we do. In countries that care a lot less about the health and safety of employees than we do. In countries that you all know, turn a blind eye to child labor and worse. And yet here we are, everyone using a laptop and an iPhone. Many of us driving electric cars. All with untraceable lithium ion battery metals making those machines work. A lot of the technology was ours, but we could not do the mining or the processing here and we were happy not to.

Here I would like to add an anecdote about Africa—I went to numerous Governmental meetings in Africa starting from the late 2000s and what I saw was hard to believe.

New African Governments looking for global partnerships to help them build roads, hospitals, schools, airports and yes, to build mines in mineral rich areas. These countries were looking for help. They were offering opportunities to share in their vast mineral wealth. Every one of these tenders was won by our rivals to the East.

Speaking of the elephant in the room, my former boss was quoted in the Financial Times a year ago as saying “If tomorrow, China wanted to sell us cars instead of batteries, they could do it”.

Let that sink in and imagine what it would mean for a GM, Ford or Tesla, companies that have spent \$billions of dollars on Giga factories here in America, to have to close up shop as they do not receive the battery raw materials to put into their batteries. Imagine as our EV market becomes strictly a BYD, Nio or Xpeng market.

This conversation is about National Economic Security as well as the Environment.

China Inc. has been smarter than us. There are no two ways about it. They have been playing the long game while we have been chasing quarterly earnings. They have been investing in infrastructure, not only at home but around the world. China saw the Electric revolution coming and they did something about it Specifically:

- As much as 90% of the World’s Cobalt/Nickel/Rare Earths and other important battery minerals are processed in China
- China built massive refineries, with Government funding without the need to worry about regulation or Climate restrictions
- China does not have it’s own massive mineral deposits, but they invested around the world in Government auctions in Africa, Indonesia and Latin America, to name a few places, in order to secure the long term supply of raw materials

This took years, I was there, in Africa, and I watched as tender after tender for mining rights was won by China Inc.

Frankly brilliant, no American companies even showed up to bid. How could American private companies wish to compete?

But the fact is, we can compete. USSM is proof of that. We just need to ‘Unleash Americas Energy and Mineral Potential’.

This should be a bipartisan issue. Whether the fear is Climate Change or the fear is China and National Security, the fears are real and the solutions are not opaque.

It starts with permitting. Now, USSM is a fantastic example of how things can be done in the US and done well. We are on private land. Our site is already permitted. Missouri specifically is a mining friendly state requiring only three basic permits, Air, Water and Metallic Metals. But, we were lucky in that our site is a Superfund Site. We are originally an environmental clean up company. Conservation and good land stewardship are in our DNA. We had an old abandoned mine in a Rural and economically depressed area that needed to be cleaned up and we worked hand in glove with the EPA and local stake holders to make sure the site was clean first and then could be repurposed for commercial use. Our site produces the all important battery metals Nickel/Cobalt and Copper from above ground tailings from old mine waste. This is a slam dunk that should be replicated all across America. There are around 57 thousand abandoned mine sites and brownfields in America and many of them could have potential to be reinvigorated. There are 100 Super Fund sites that should be looked into for repurposing. Federal land permitting needs to be looked at again to open new mines and needs to be looked at now because the average time to from start to production for new mines is 8–10 years. We need to get going. And the reason for that is the pure scale of the demand coming from renewable and high tech applications will require American mining. I am sure you all have seen some numbers around demand but according to the IEA the structural needs through 2040 the magnitude of growth looks like this for the main metals:

Lithium	90% increase in demand
Cobalt	75% increase in demand
Nickel	62% increase in demand
Copper	44% increase in demand

America has the potential to handle this increase in demand through it’s own rich reserves and recycling but I do have to mention that we at USSM can also process metals from other countries and in fact we will soon be commissioning our own American IP, low carbon/low emission hydrometallurgical beneficiation plant, an answer to the toxic pyrometallurgical smelters used in other parts of the world. We are also a recycler and will be blending 50% of our indigenous feed with Black Mass from recycled batteries. This is a massive differentiator and another example of American ingenuity as we are able to recover well over 90% of the metals from used Li Ion batteries including Lithium. We have also been commissioning a Precursor Cathode Active Material (PCAM) pilot plant which is the final link in the supply

chain. All here in America, and so far all without the help of the US Government. But we need help. We could be moving much faster if we had help.

We also are fighting some disturbing narratives that are hindering that help from coming.

I just came back from Southeast Asia where I had meetings with some of the best battery makers in the world who also happen to be some of the richest companies in the world. They are already investing in the US. Large giga factories, \$billions of dollars. They are interested n investing in us too. BUT, they have heard from prominent US OEM's that there is no need to invest in US domestic raw material mining and processing. They have heard that, Indonesian metal that is processed in 49% FTA owned PCAM plant in China will qualify for the IRA money. They are worried that investing in an American solution would be a waste of their time and money. This is where we can absolutely use your help to make sure the Domestic Content requirements for the IRA EV credits are clear, Domestic Content means mined or processed in the US or FTA countries, not that a sticker is slapped on the battery at a Giga factory here when the entire battery was mined in FEC's and processed in China. I think it needs to be made clear that US OEMs should do everything they can to support US domestic production where we have full transparency of the supply chain and they know we care about our employees and the environment.

The other narrative we fight is the 'experts' of questionable origin that are saying:

"Experts say the Chinese presence in the electric-vehicle market is already nearly ubiquitous, that corporate partnership between Chinese and foreign automakers, including those in the U.S., is standard and that reaching America's climate goals without Chinese technology would be exceedingly difficult."

These experts and these voices are the same people that have managed to allow us to fall behind so far but my message to this august body is that We Can Do It in America.

Lastly I would just like to say that mining in America is arguably the Greenest and Cleanest in the World and it's getting cleaner. At our work site we plant new vegetation everywhere the earth is not disturbed. We intend to make our mine an environmental showcase, including renewable energy sources and eventually selling carbon credits by creating a carbon sink on site. Beneficiation at USSM is also a major focus and our work on Circular Hydrometallurgy and Zero Waste mining are cutting edge. It's a new world and a new way to look at mining. Telling our story as an industry is something we need to focus on as the strides forward to modernize and lower carbon footprints are exceptional.

We also are required to institute high levels of safety and use a well paid, diverse and ethical workforce.

We reach out to local stake holders and engage with our local universities like Missouri S&T at Rolla.

The story is not only important but it is good and we need to de-stigmatize the role of the mining industry and foster an open mind for new projects and new mines.

This is an existential issue and its an issue I think both sides can agree on. The best time to Act was yesterday. The second best time to Act is today.

QUESTIONS SUBMITTED FOR THE RECORD TO MICHAEL HOLLOWOM, COMMERCIAL DIRECTOR AND MEMBER OF THE BOARD, U.S. STRATEGIC METALS

Mr. Hollomon did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Westerman

Question 1. You may be aware of the administration's recent announcement to fund 16 mining projects around the world through the Mineral Strategic Partnership, to supposedly improve the security of our supply chains. We do not have any clarity on where these projects are located and what environmental or human rights standards are in place there, which is why I sent a letter to the administration with Congressman Pfluger and Chairman Comer on January 31st. It feels like we are getting even farther from a secure domestic supply chain, not closer.

- *What would be the environmental and humanitarian "cost" of relying on China and other adversaries to meet our mineral needs, especially as demand explodes in the coming years and decades?*
-

The CHAIRMAN. Thank you, Mr. Holloman. The Chair now recognizes Chairman Franklin for 5 minutes.

STATEMENT OF RENO FRANKLIN, CHAIRMAN, KASHIA BAND OF POMO INDIANS, AND MEMBER, ADVISORY COUNCIL ON HISTORIC PRESERVATION, SANTA ROSA, CALIFORNIA

Mr. FRANKLIN. Thank you. Before I go any further, thanks for the water. It is appreciated. So, [speaking in Native language].

I am the Chairman of the Kashia Pomo Tribe. I am also proudly Hawaiian, as well. And thank you for this opportunity to sit in front of all of you today and talk, and also to my son back home for being patient on his 15th birthday, and his dad is here spending time with all of you. So, thank you for that.

I just want to talk a little bit about tribes. And you see my testimony has been submitted. I am not going to go through the whole thing, because you all have it in front of you, and I expect to answer some questions based off of my testimony, as well.

But, I really just want to talk about the role that the 1872 mining law plays in Indian Country. I think it is important for you all to understand the impacts that mining has on tribes.

Before getting into the impacts, I want to say that tribes are not necessarily opposed to mining, and tribes fully understand that we have minerals that are part of the country, and the development of the country, and that keep us going. They keep the lights on, they keep the cars running. And in some cases, when the lights are off, they keep the batteries and those lights on, the temporary ones. So, we recognize the importance.

But I also want to say that when this law was created in 1872, I mean, tribal rights were not even a consideration. And they weren't worried about what are we doing on Indian lands and how are tribal people being impacted by this mining. Folks could just come out, apply for the mine or the permit for mining, and then go out and do it. And that has left, and the BLM estimate of 500,000 abandoned mines on or near Indian Country in the United States.

So, in my statement of saying that tribes are not opposed to mining, what we are opposed to is unregulated mining. And that 1872 Act, yes, it is a regulation, but it doesn't regulate how mining impacts tribes. And I am here today to talk to you all about that.

I am here to ask you to, in your consideration of possible reforms to the mining laws, possible additions, that as we look at a few things, as we look at the impacts to tribes, there will be a lot of discussion, as I imagine, as it was in the last panel, as well, on timing and the permitting process—and I want to point out to you all that tribes, we have tribal historic preservation officers. I am one of them. We implement Section 106 on tribal lands and do the consultations along with Federal agencies and tribal governments.

And one of the things that slows down the permitting process on Indian lands, especially for mining, is the lack of resources to Tribal Historic Preservation Officers. So, as we look at how we find solutions to doing mining, and as you all consider it—I am looking to this side, it is empty, but I am still going to look over there—as you all consider actions that you will be asked, and decisions that you will be asked in the future to make, just my request to

you as—not just as a chairman, not just as a father, but as a citizen of the United States and as an Indian person who has a vested interest in making sure that my children inherit an environment, both botanical environment, but also, very important, a historical, a sacred site environment that I enjoy and that all of our relatives have been able to enjoy, that you consider those things as you look at improvements to process, as you look at potential impacts to tribes, and as we move forward with hopeful reforms to a mining law from 1872, like I said, that really did not look at impacts to tribes or Tribal Nations.

I would like to point out to you also that, when we have a couple of trees, you can get the seeds from trees and plant them in another place. And I know that, because as a Class A Faller, and as a former firefighter, I cut down a lot of trees, and was asked a lot of times to assist with gathering the pine cones so that we could take that same stock and put it in another place and grow a forest somewhere else.

I want to point out that cultural resources are non-renewable. You can't do that. When you destroy a sacred site, it is gone. It can't be brought back out, it can't be healed and fixed in the way that our forests can, or the environment around us.

So, I am happy to answer questions, fully expect to, have some pretty, cool, zingy responses that I think we will all enjoy. But more important, thank you for the time.

[The prepared statement of Mr. Franklin follows:]

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF TRIBAL HISTORIC
PRESERVATION OFFICERS,
RENO FRANKLIN, CHAIRMAN OF THE KASHIA BAND OF POMO INDIANS,
TRIBAL HISTORIC PRESERVATION OFFICER FOR THE ENTERPRISE RANCHERIA OF
MAIDU INDIANS

Chairman Westerman, Ranking Member Grijalva, and Members of the Committee, I appreciate the opportunity to testify on America's energy and mineral potential. My name is Reno Franklin. I serve as Chairman of the Kashia Band of Pomo Indians and as a member of the Advisory Council on Historic Preservation.

Mineral mining has an important role to America's energy future. But mining has come at a cost to native Tribes. In the process of creating renewable energy resources, we have lost some of our most important non-renewable resources—the cultural artifacts and sacred sites that are the foundation of Tribal history and present-day life. Once these cultural resources are destroyed, they cannot be replenished. But the federal government can create fairness in this process by mandating consultation with Tribes and incorporating their advice in the planning and implementation of mineral mining projects.

The statute governing mineral mining, the General Mining Act of 1872, was created at a time when the rights of Tribes were virtually unrecognized. This led to a law that allowed settlers to stake a claim and gain title to our lands without our consent. Miners and mining corporations flooded our homes, often mining in places that were ill-suited for it or places that were located next to valuable water—a resource that has become even more scarce in the American West today.

Much of that original Mining Law has remained intact, and the scale and effect of modern mining continues making an outsized impact on our cultural resources. To this day, the Federal government interprets the Mining Law to mean that mineral mining is the “highest and best use” for Federal public lands. However, that should not preclude the voices of Tribes nor the disregard for existing regulations and laws. Sadly, the government often approves mineral mining proposals without considering Tribes, even on land it holds in trust for Tribes—where the government has an obligation to act in our interests. And the law does nothing to hold bad actors accountable after they break their agreements and demolish our cultural resources.

This disregard for Tribes is even more troubling when you understand that the government has interpreted the Mining Law to preference even foreign corporations above native people. A foreign mining corporation can get a permit with no Tribal consultation, mine with impunity, destroy our religious and cultural heritage, and then reap the profits while we are left with nothing but pain and trauma. I want to give two examples of this practice.

The Tohono O'odham People have lived in North America for thousands of years. Their ancestral homeland included parts of central and southern Arizona, including the Santa Rita mountains, and extended down into Mexico; From the West, O'odham territory spanned the Gulf of California to the San Pedro River. In the 1980s, the Anamax Mining Company obtained a permit to mine a section of the Santa Rita mountains that contained ancient village artifacts and all of the burial grounds of the O'odham Nation's ancestors. But the corporation went bankrupt and abandoned the mining site, leaving the artifacts and remains dug up and exposed. Now, a Canadian mining corporation called Hudbay wants to dig a mile-wide copper mine at the same site. Without any Tribal consultation, the corporation received a permit for the mine in 2019. Since then, the O'odham, along with other Tribes, have fought to prevent Hudbay from destroying numerous sacred sites and burial grounds. So far, they have been successful. But the fight is ongoing, and Hudbay recently proposed an even bigger copper mine in the Santa Ritas than the one in their original plan.

Hundreds of miles west, the Reno-Sparks Indian Colony faces a similar struggle. This group of Tribes lived in the Great Basin, an area spanning the Sierra Nevadas in the west to central Utah in the east, for thousands of years. They have faced threats to their sacred sites since soon after the Mining Law was passed. Today, a foreign corporation wants to build an open-pit lithium mine on Peehee Mu'huh, an area known as Thacker Pass. Thacker Pass serves as a memorial to tragedy in the Reno-Sparks Colony's history. Twice the Paiute People were massacred on the Pass, once by another Tribe, and once by the Nevada Cavalry. Thacker Pass also contains thousands of documented artifacts and cultural sites. Ancestors of the Tribes used the area as a travel route, campsite, place of worship, and a ground for hunting, fishing, and foraging. The Tribes continue to do so today. If the proposed lithium mine were built, the Reno-Sparks Colony could no longer use Thacker Pass for so many activities foundational to their day-to-day lives and the site of two massacres would be removed from the landscape. No more could visitors, both Tribal peoples and other Americans, visit the area to learn valuable lessons from history and how it impacts a still-present community.

Many reforms to the Mining Law and to federal mining regulations are necessary. Specifically, I want to advocate for Tribal consultation. Congress should amend the Mining Law to require Free, Prior, and Informed Consent from the affected Tribes before a new mining project is allowed to begin. Mandated consultation should continue throughout the project. And the Bureau of Land Management (BLM) must update its mining regulations as urged by the petition that tribes and NGOs filed in September 2021. At minimum, Tribes must have a seat at the table when a mining company asks to start a new project. Based on what they learn, federal agencies must be able to mitigate the impacts projects would have on Tribes and Tribal land. And agencies and industry both must be held accountable when they fail to follow laws and regulations.

We are encouraged by the Interagency Working Group on Mining Reform, and hopeful that the group will soon recommend detailed legal changes that would provide for robust Tribal consultation and protect our communities' lands and cultures.

Tribes in a general sense are quite reasonable. We understand the need for domestic sourcing of materials and the drive toward energy diversification. But we must also stand up for our rights, our cultural and religious practices, and, for the purposes of the members gathered here, our place in the larger discussion of land use.

We do not deny the importance of mineral mining. We do not ask for disproportionate power, or for a halt in mining. We simply ask for our voices to be heard, especially when the consequences to Tribes can be dire. Our lands are not just our homes. They are our museums, our churches, our playgrounds, and our graveyards. Please update our laws and regulations so that the foundations of our culture can persist, and that real consultation and consequence is integrated into the process.

Thank you for considering my testimony. I would be pleased to answer any questions you have.

The CHAIRMAN. Chairman Franklin, thank you for your testimony, and happy birthday to your son. The Chair now recognizes Mr. Adams for 5 minutes.

STATEMENT OF MATTHEW ADAMS, VICE PRESIDENT AND SENIOR TAX COUNSEL, NAVAJO TRANSITIONAL ENERGY COMPANY (NTEC), BROOMFIELD, COLORADO

Mr. ADAMS. Chairman Westerman, Ranking Member Grijalva, thank you for the opportunity to speak today. My name is Matthew Adams, I am Vice President and Senior Tax Counsel for Navajo Transitional Energy Company, also known as NTEC.

Navajo Transitional Energy Company was formed in 2013 as part of a groundbreaking initiative by the Navajo Nation to assert and assume full sovereignty over its vast mineral and energy assets. NTEC was established under Navajo law, and is an autonomous limited liability company whose sole shareholder is the Navajo Nation. NTEC's initial objective was to take control of the Navajo mine, which is located on the Nation just outside of Farmington, New Mexico.

In 2019, NTEC acquired all of the assets, substantially all of the assets, of Cloud Peak Energy, and thereby became the third-largest coal producer in the United States. Our core portfolio includes the Navajo mine, which is the mine mouth that feeds the Four Corners Power Plant on the Nation. We also have the Antelope and Cordero mines, which are in Wyoming, and the Spring Creek complex in Montana.

In 2022, we produced 52 million tons of coal, 49 of which stayed domestic, and just over 3 that went international to the Asian Pacific.

In addition to owning and operating coal mines, NTEC owns and operates helium wells on the Navajo Nation. We have an ownership percentage in the Four Corners Power Plant. We have an ownership interest in the Round Top rare earths deposit in Texas. We just announced a partnership with Arizona Lithium for the development of the Big Sandy Lithium Project in Arizona. We continue to work closely with the owners of Four Corners Power Plant to develop a large-scale merchant power solar facilities on reclaimed mined land on the Nation.

We truly represent and strive for an all-of-the-above answer and answers for our energy problems and our energy needs. If there is new technology that is going to be developed, and we believe it can provide energy for the Nation to help the United States or beyond, we are going to be interested, and we are going to be there.

In addition to what we do, we are very proud of how we do it. Our steadfast focus on safety gets our people home safe. Our stewardship for the land, we lead by example. Last year, the Navajo mine was the first mine in the United States to earn both the National Mining Association's Sentinel of Safety, one of the highest safety awards in the United States, and the U.S. Department of the Interior's National Reclamation Award in the same year.

We are also an essential contributor to the Navajo Nation. Through royalties, taxes, and payments, NTEC provides 30 percent of the Navajo Nation's general fund, 30 percent on an annual basis. Further, the Four Corners Power Plant provides another 9 percent.

So, 39 percent is coming from our mine mouth operation on the mine. That plant is currently scheduled to close in 2031.

I want to hit some key points that I want to make sure that we get out and that we can talk about today.

Coal continues to be an essential resource for United States. This is true from an energy reliability perspective, as well as from a Federal revenue perspective. In fact, as I started speaking today, PJM, right now, 18 percent of their electricity is coming from coal. In the middle 30 of the United States, MISO 30 percent and SPP 33 percent. So, today, on a nice day, a moderate day with good wind, there is some sun, coal is still doing a third of the work out there.

We believe that above-all should be above-all. Coal needs to stay in the mix. Coal needs to be that baseload. Last year, we provided 21 percent of the baseload in the United States. We need innovation, not elimination. We need to shift the focus away from what fuels the plant to how we utilize technology and innovation to ensure that the emissions are where we want them to be.

The U.S. coal fleet has invested approximately \$127 billion in emission controls through 2022. In 2021, the U.S. coal fleet emitted 909 million tons of CO₂, which was 18 percent, it was only 18 percent of the 4.9 billion from energy-related CO₂. Global greenhouse gas emissions are estimated to be in the magnitude of 49.8 billion tons in 2020. The U.S. coal fleet was less than 1.5 percent.

We need to develop a deliberate strategy for a conversion from fossil fuels that does not put lives at risk, does not hinder the economy, and is thoughtful and practical. A coal plant should not be retired before there is comparable replacement energy on-line. Technology has not advanced to the point where we can do that yet. The reliability of the grid is at stake, and recent grid emergencies from storms have shown that.

There are significant issues with the current permitting processes. The United States should look for ways to maximize our coal exports. The revenue from the royalties, as well as replacing coal that is mined in unethical and environmentally friendly ways, we can do that.

Finally, I would like to hit later on the amount of coal that is burning in the United States is absolutely immaterial to what is being burned in China and the rest of the world. The United States will burn a half a billion tons this year, 500 million. The world will burn over 8 billion, half of that being from China.

With my time ended, I will conclude my comments.

[The prepared statement of Mr. Adams follows:]

PREPARED STATEMENT OF MATTHEW ADAMS, VICE PRESIDENT AND SENIOR TAX
COUNSEL FOR NAVAJO TRANSITIONAL ENERGY COMPANY

Good morning. My name is Matthew Adams. I am a Vice President and Senior Tax Counsel for Navajo Transitional Energy Company—also known as NTEC.

Navajo Transitional Energy Company was formed in 2013 by the Navajo Nation to take ownership and control of the Navajo Mine located on the Nation outside of Farmington, New Mexico. In 2019, NTEC acquired substantially all the assets of Cloud Peak Energy after they filed bankruptcy. Through this acquisition, NTEC became the 3rd largest coal producer in the United States. Our coal portfolio includes the Navajo Mine—which is a mine mouth operation feeding the Four Corners Power Plant located on the Navajo Nation; the Antelope and Cordero Mines in Wyoming and the Spring Creek Complex in Montana. In 2022, NTEC produced

52 million tons of coal; of which 49 million tons were sold domestically and 3 million tons were exported to the Asian Pacific rim.

In addition to owning and operating coal mines, NTEC owns and operates producing helium wells on the Navajo Nation, we have an ownership percentage in the Four Corners Power Plant, we have an ownership interest in the Round Rock rare earths deposit in Texas, we continue to have conversations with the Navajo Nation regarding potential wind and solar projects, and we are analyzing potential gas generation facilities, and we just announced a partnership with Arizona Lithium for development of the Big Sandy lithium project in Arizona. Further, we are interested in potential hydrogen projects. We truly represent and strive for All of the Above solutions to the energy needs of the Navajo Nation, the United States and beyond. If a new technology is developed which we believe can help us provide energy and support the Navajo Nation—we will be analyzing it.

In addition to what we do, we are very proud of how we do it. Our steadfast focus on safety gets our people home safe and our stewardship for the land leads by example. Last year, the Navajo Mine was the first mine in the United States to earn the Sentinel of Safety Award and the National Reclamation Award in the same year.

We are an essential contributor to the Navajo Nation. In addition to significant royalties and taxes, NTEC provides in numerous other ways. We provided over 12,000 tons of coal in 2022 through our CRRP program to ensure houses stay warm in the cooler months. We expect to exceed that amount this year. Additionally, we contribute \$250,000 per year to the Community Benefit Fund as well as providing scholarships and education. In all, NTEC has given over \$315 million directly to the Nation and charities since 2013. Of our almost 1,400 employees, 354 voluntarily identified as Native American—including 318 Navajo employees. The average salary of our employees identifying as Native American is \$82,600 (average salary for all employees excluding the Executive team is \$80,700). These high paying jobs are essential to the community. The Navajo Nation is one of the most impoverished communities in the United States, so to put this in perspective,

On the Navajo Nation:

- Median household income is \$26,862 (\$57,652 for the US),
- 36% of households have income below the poverty line (12.7% in the US),
- 19% of households are in Extreme Poverty,
- 40% of homes lack running water,
- 32% of homes lack electricity,
- 86% of homes lack natural gas,
- Unemployment rate is just above 40%,
- More than 50% of Navajo on the Nation live more than 20 miles from the nearest grocery store (there are 13 grocery stores on the 27,000 square mile Nation),
- 2020 census numbers provide 32.9% of homes have broadband access.

Through royalties, taxes and other payments NTEC provides 30% of the Navajo Nation General Fund on an annual basis. Further, the Four Corners Power Plant provides another 9%. That power plant is currently scheduled to retire in 2031.

Navajo Transitional Energy Company's Position on Energy

We truly believe in an 'All of the Above' energy strategy. We don't just believe in it, we live it. However, we strongly believe that all of the above should include coal. Coal continues to provide reliable, inexpensive energy for United States industries and citizens. Whether the sun is out or not, whether the wind is blowing or not, whether its 120 in peak summer or -50 below as a winter storm comes through, coal continues to be the most reliable, dependable, affordable source of energy to keep temperatures in houses warm or cool and industry moving.

As personal background, I have been working in the extractives space for 20 years as a legal and tax professional. I was on the Royalty Policy Committee under the Trump Administration and co-chair of the Fair Return and Valuation Subcommittee. I represent NTEC as a member of the Board or on committees for, National Mining Association, American Coal Council, America's Power, Wyoming Mining Association, Rocky Mountain Coal Council, and other industry groups. I can testify today that I have never been at a meeting, nor ever had a discussion with a member of any of these organizations where the goal was to eliminate solar, wind, hydro or other 'renewable' forms of energy. That is not a focus or priority of any of these groups. However, I have been party to many conversations where the focus

was around how to ensure that baseload power—the power needed to keep houses warm or cold, to keep incubators on in the hospitals, and the machinery in industry running—can be borne by the most reliable energy sources available in our county.

KEY POINTS:

- **Coal continues to be an essential resource for the United States. This is true from an energy reliability perspective as well as from a federal revenue perspective.**
 - All of the Above, should be ALL of the Above.
 - Coal generated 21% of the electricity in the United States in 2022.
- **We need to shift the focus away from what fuels the plant, to how we can utilize technology and innovation to ensure emissions are where we want them to be.**
 - The United States coal fleet has invested approximately \$127 billion in emissions controls through 2022.
 - In 2021, the United States coal fleet emitted 909 million tons of CO₂, which was 18.5% of the total emissions of 4.9 billion from energy-related CO₂.
 - Global anthropogenic greenhouse gas emissions are estimated to be in the range of 49.8 billion tons in 2020.
 - The United States coal fleet is estimated to be less than 1.5% of global GHG emissions.
- **We need to develop a deliberate strategy for a conversion from fossil fuels that does not put lives at risk, does not hinder the economy, and is thoughtful and practical.**
 - A coal plant should not be retired before comparable, replacement energy is in place.
 - Technology has NOT advanced to policy mandates.
 - The reliability of the grid is at stake.
 - Recent grid emergencies have highlighted the fragility of the bulk power system.
- **There are significant issues with the current permitting process that is having significant impacts on developing additional coal resources as well as development of new gas, wind and solar projects.**
 - Too much redundancy in evaluations and analysis.
 - The internal strategy of delay, ponder and further delay is pushing our energy infrastructure to the brink of catastrophe.
 - The level of judicial advocacy around permitting and environmental issues needs to be resolved.
- **The United States should look for ways to maximize coal exports.**
 - The outcome is additional revenue to the Treasury and ensuring that our high-grade coal, which is mined with significant focus on environmental and labor concerns, continues to fuel the development of the global economy.
 - When Asian utilities cannot secure their coal requirements from the United States and Australia, they are forced to consider and use Russian coal.
- **The amount of coal burned in the United States is immaterial compared to China. China and India continue to build and develop coal-fired generation and will continue to increase burn rates through the remainder of the decade.**
 - We estimate that there will be approximately 8 billion tons of coal burned worldwide in 2023. Approximately 500 million of that will be in the United States and 4 billion will be in China.
 - The United States currently has 200 MW of coal capacity—of which 127 MW are scheduled to be retired or eliminated by EPA regulations in the next 7 years.

- o China has over 1,100 coal plants with a capacity over 1,000,000 MW currently active and they are adding significantly to that amount through 2029.
- o The world's existing coal fleets will emit 276 billion tonnes of CO2 during their collective lifetimes. The U.S. fleet will emit 9 billion tonnes over its lifetime—3% of the global emission.
- **Eco-Colonialism is NOT the answer for dealing with Tribes—or international partners.**
 - o According to the International Energy Agency, there are 775 million people in the world without access to power.
 - o In the United States, the economic impact of not allowing or marginalizing mineral develop on Tribal Lands would be catastrophic.
 - o Not allowing countries to establish energy independence to further advance their own growth and economic independence should not be the policy of the United States.
 - o Tribal consultation should be consultation with Tribes, not dictating to a desired outcome.

EXPORTS

NTEC is one of a few companies that is exporting thermal coal out of the Westshore Terminal in Southwest Canada. We export between 3 and 5.1 million tons per year—depending on the quality of rail service we get. If we could get 40 million tons available for export, the Asian market would gladly purchase it. The coal they are purchasing from United States mines is high quality, consistent coal and it burns very efficiently in their boilers. There are some significant side benefits to the exportation of US coal as well. First, the vast majority of the coal that is being exported is on state or federal land—therefore it is subject to a 12.5% royalty. Second, the coal that we are able to place into the market displaces coal that is mined in countries that do not have the same environmental and labor laws that are prevalent in the United States. However, we have extreme constraints on getting coal into the export market. As I mentioned, we are exporting through Canada. Canada, and the province of British Columbia, have actively discussed legislation that would ban coal trains from the United States passing through their territory. Further, all of the projects that were initiated to build a new coal terminal in Oregon and Washington were shut down by either the Army Corp of Engineers or Washington Governor Inslee. As such, there is a very significant challenge in being able to place United States coal into the Pacific. Starting over a year ago, there have been significant transportation disruptions and we have not been able to get coal to our customers in Asia. They have been forced to get their requirements from Russia. That did not have to be the case—it shouldn't be the case.

Innovation not Elimination

There is such an overwhelming focus on 'eliminating coal'. The Powering Past Coal Alliance's current website states "The End of Coal is in Sight" as an almost celebratory statement. Over the past decade, a significant number of companies in the financial and insurance sectors have told coal companies they will no longer work with them . . . not because they were high risk or bad business, but because they were coal producers. Headlines across the globe are available on a daily basis demonizing coal, coal workers, and supporters of the most reliable, dependable and affordable producer of energy on the planet.

We believe carbon capture may truly be a solution to elimination of emissions and we applaud the steps that have been taken through the IRA and other measures. Other solutions also exist, we just need to find them, but all of these things will take time. Perhaps harnessing and storing the power of lightning is possible. Perhaps the technology to separate elements within our atmosphere to breakdown GHGs will prove possible. There are areas that are focusing on innovation, but nowhere near enough if we want to truly find a solution.

One example is C-Valley in Campbell County, Wyoming. C-Valley has established a site where companies and researchers are able to not only work on carbon capture projects; but look for new and innovative ways to transform coal into other products—such as asphalt, graphite, carbon fiber and more. Additionally, the University of Wyoming continues to move forward with research on alternative uses for coal. They recently filed a patent for a building material that uses coal rather than clay. The new product has shown in tests that it is lighter, stronger, more energy efficient and cost effective.

From a policy perspective, I believe the focus on demonizing coal rather than finding ways to solve the concerns has led us down a path with some extraordinary challenges and devastating consequences.

REVENUES

Coal has clearly been in a decline over the past 6 years. In 2017, Federal coal revenues (includes bonus payments, rents, royalties) totaled \$558 million. After years of declines, 2021 revenue totaled \$382 million. There was a rebound in 2022 and the preliminary revenue is \$526 million. This revenue for the Department of the Interior is essential to the federal government and the states in which coal is mined.

PERMITTING

There has been 1 Lease by Application (LBA) in Wyoming in the last 15 years.

Over the past 20 years, the process of acquiring additional coal to mine has gone from a 3–5-year process to the current 12-year process. There are several reasons for this lengthy process including redundancy of reviews by different agencies, litigation delays, Department of the Interior’s timing of handling its workload just to name a few. Under the current rules, when a company is awarded an LBA it pays for that coal in the immediately following 5 years. The winning bids for coal between 2000 and 2012 ranged from a low of \$42.8 million to a high of \$793 million. In other words, if a coal company is interested in acquiring additional coal on Federal land (where the vast majority of the coal is located west of the Mississippi River), the company would need to pay the bid of hundreds of millions of dollars without obtaining a penny of revenue from the purchased coal for 12 years. This economic reality has created a situation where the currently leased coal in the Powder River Basin could be mined in the next 15–20 years. Unless the economics around thermal coal significantly change, or the permitting process is significantly shortened, the amount of coal coming out of Wyoming and Montana will be a pittance of what we see today.

REST OF THE WORLD

We estimate there will be approximately 8 billion tons of coal burned in the world in 2023. That includes thermal and met coal. There will be approximately 500 million tons burned in the United States—leaving a balance of 7.5 billion tons burned elsewhere. Of that, approximately 4 billion tons will be burned in China.

Today, the US coal fleet is right about 200 MW. Of that, more than 50% is supposed to retire by the end of 2030. Further, it is anticipated that the regulations about to come out of the Environmental Protection Agency will eliminate another 23,000 MW of coal generation in the US by 2025. This at a time when moving to an EV economy is expected to at least double the demand for electricity in the next 25 years.

Currently, China has the world’s largest coal fleet with over 1,000,000 MW. Five times the US fleet. India is currently second with 233,000 MW. China and India are both increasing their coal generation; together, they have 347,000 MW under construction or in development. Chinese President Xi Jinping has pledge to ‘strictly control’ coal consumption until 2025 and start cutting coal use in 2026 in order to reach their maximum CO2 emissions before their ‘before 2030’ deadline.

As of December 2022, there were 2,439 coal plants in the world. Of those, 225 are in the United States. It is currently estimated that the world’s currently existing coal fleet will emit 276 billion tonnes of CO2 during their collective lifetimes. The US fleet will emit 3% of the world’s total.

The concern is that while the US policy is to eliminate reliable and available coal generated electricity, a country that has a stated goal of being the single global superpower is dramatically increasing its available power. China currently consumes 50% of the global coal consumption, and it is highly likely that allocation will continue to grow.

QUESTIONS SUBMITTED FOR THE RECORD TO MATTHEW ADAMS, VICE PRESIDENT,
SENIOR TAX COUNSEL, NAVAJO TRANSITIONAL ENERGY COMPANY (NTEC)

Questions Submitted by Representative Westerman

Introduction

I appreciate the questions from the House Committee on Natural Resources. On behalf of Navajo Transitional Energy Company (NTEC), I am providing the following responses. I believe that each of these questions is an essential consideration as part of a thorough review of current energy policy for the United States and whether the policy will meet the legal requirements and energy needs of citizens moving forward. As such, each issue deserves much more attention and discussion than I am able to provide here. I am available at any time to discuss any energy or mining matter, or attend further sessions of the House Committee on Natural Resources to discuss these issues.

I also want to clearly state Navajo Transitional Energy Company's belief with regard to energy in the United States and beyond. NTEC will celebrate the day when technology and science have developed a way to power our industries, heat and cool our homes, keep incubators running in hospitals and ensure that all communities can afford cheap, dependable electricity that has zero carbon emissions, allows plants to flourish and has zero impact other than providing electricity. However, that day is not today. But NTEC remains confident that human ingenuity, resourcefulness and a results-oriented focus will allow the United States to lead the world in the search for that energy technology.

NTEC has concerns that the path we are taking as a nation is leading to an unprecedented energy crisis that will cost lives, damage the economy and risk national security. This past weekend, the Wall Street Journal, referencing an ominous report from one of the country's largest grid operators, echoed our concern that "Fossil-fuel power plants are retiring much faster than renewable sources are getting developed, which could lead to shortages and blackouts ("S.O.S for the U.S. Electric Grid", Feb. 26, 2023). The entire United States coal-generated electricity fleet accounts for one point 5 percent (1.5%) of global emissions. China currently has in excess of 5 times the amount of electricity generated by coal in the United States . . . and they are expected to more than double that amount in the next 6 plus years. The consequence of that action will be that China has cheap, reliable and constant energy while the United States can expect brown and blackouts by the end of the decade. While NTEC supports (and is part of) the United States leading the charge into the 'green energy future,' the ill-advised rush to decommission our existing fleet of power plants will simply lead to much higher energy costs, less reliable energy and energy shortages that will put our economy and national security at risk.

Question 1. With the increase in wind and solar generation, why are coal companies worried about the reliability of the electrical grid?

Answer. NTEC supports development of renewable resources and is working to develop large-scale solar generation capabilities. But, wind and solar cannot replace the tens of thousands of megawatts of baseload power supplied by our coal-fired power plants. Coal provides more than one-third of the electricity generation in the world and is a critical source of baseload generation. Baseload generation is needed to keep the electricity grid stabilized and grid frequency controlled. The U.S. electricity grid operates at a frequency of 60hz and if this precise frequency is not maintained, power outages and/or significant damage can result to electricity grid infrastructure, as well as industrial equipment and consumer electronics found in most homes in the U.S. Wind and solar electricity generation do not have the attributes necessary to maintain grid frequency without support from significant baseload power.

In the past, most dialogue in electricity industry trade groups focused on the high priority of costs to consumers of electricity and what source of fuel could best provide reliable energy at a reasonable cost. In recent years, FERC, State PUC's and regional grid operators have prioritized Greenhouse Gas (GHG) reduction above any other consideration while failing to acknowledge the growing costs to consumers, the increasing risk to grid reliability and the resiliency challenges.

Wind and solar are intermittent resources, meaning they produce electricity only when weather conditions are favorable. Wind and solar are also considered non-dispatchable as opposed to coal, natural gas, and nuclear power plants which are dispatchable because their electricity output can be increased or decreased (dispatched) based on electricity demand.

The coal fleet, on the other hand, is essential for a reliable grid because (1) its high accredited capacity value contributes to resource adequacy and makes coal a highly dependable electricity resource, and (2) it provides fuel security and essential reliability services (frequency support, voltage control, and ramping/balancing). Accredited capacity is a measure of how dependable a resource is when electricity demand peaks, such as during extreme weather. MISO uses the following for accredited capacity values: nuclear 95 percent, coal and natural gas 90 percent, batteries 87.5 percent, solar 35 percent, and wind 16.6 percent. Because of its capacity value, coal is considerably more dependable than wind or solar. To illustrate the impact of accredited capacity, more than 5 megawatts of wind (90 percent divided by 16.6 percent) must be added to the grid to replace 1 megawatt of retiring coal capacity.

As grids deploy more intermittent renewables and retire dispatchable generation assets like coal, the grid becomes increasingly less reliable and resilient. This is a concern for coal producers, as well as utilities and government and quasi-government entities responsible for monitoring the nation's electrical transmission system. The North American Electric Reliability Corporation (NERC) provided subtle warnings seven years ago: "The North American Bulk Power System (BPS) is undergoing a significant change in the mix of generation resources and the subsequent transmission expansion . . . [T]he rate of this transformation in certain regions is impacting planning and operating of the BPS."¹ By last year, NERC's warnings had become more blunt: ". . . the BPS has already seen a great deal of change and more is underway. Managing this pace of change presents the greatest challenge to reliability . . . Energy risks emerge when variable energy resources (VER) like wind and solar are not supported by flexible resources that include sufficient dispatchable, fuel-assured, and weatherized generation."² To prove NERC's point about the rapid transformation, more than 100,000 MW of dispatchable, fuel-secure coal-fired generation have retired and over 128,000 MW of VER (wind and solar) nameplate capacity were added to the BPS between 2015 and 2022.

An alarming amount of coal-fired generating capacity has publicly announced plans to retire; as of December 2022, 83,000 MW have announced retirement by 2030. In addition, six EPA rules are certain to cause even more coal plant closures unless the agency takes steps to avoid causing retirements that would further jeopardize grid reliability and resilience. The announced retirements and expected impact of the EPA rules will reduce the coal electricity fleet in the United States by more than 60% in the next 7 years.

The fast pace of retirements should be deeply disturbing to the Federal Energy Regulatory Commission (FERC), the NERC, grid operators, utility commissioners and other policymakers. Limiting coal (and other thermal) retirements as well as valuing all reliability attributes would be straightforward steps to help mitigate reliability problems in the near future.

Finally, attached to my response is a new report released by Energy Ventures Analysis and America's Power that analyzed the performance of electricity resources during Storm Elliott. The analysis found that coal, natural gas, and fuel oil provided 94 percent of the additional nationwide demand for electricity caused by Elliott. In other words, fossil fuels provided almost all of the additional electricity when it was needed most, with coal providing almost 40 percent. The report further notes that because coal plants have on-site fuel storage, it makes them more dependable than natural gas plants, wind farms or solar panels. Unfortunately, the retirement of coal plants is undermining grid reliability and, therefore, should be paused.

Question 2. Why are permitting delays important to coal producers?

Answer. Permitting delays are not just occurring in coal mining. Permit delays are being seen in the efforts to permit mines for critical minerals (e.g., cobalt, lithium, rare earth), solar and wind farms, and to develop energy storage facilities and transmission infrastructure. The byzantine regulatory structure, risk of litigation and uncertainty of permitting pathways has made developing critical energy projects—renewable resources, traditional resources, and energy infrastructure (including transmission) and efficiency projects—unpredictable and jeopardizes our economy and national security.

For coal producers, however, the regulatory interference has greater implications. The coal industry has spoken for years, perhaps decades, about the amount of coal available in the United States. Not only is the number in the billions of tons . . . it is high quality coal (cleaner burning, higher BTU) which is easily minable with today's technology and mining methods. However, the amount of coal that is

¹NERC, "Essential Reliability Services Task Force Measures Framework Report," November 2015.

²NERC, "Long Term Reliability Assessment," December 2021.

currently available to be mined is a tiny fraction of that billions of tons that is available. In the Powder River Basin (Wyoming and Montana), it is estimated that there are less than 20 years left of *permitted* coal.

The vast majority of coal west of the Mississippi River is on either federal or state land. In order to obtain more permitted coal on federal or state lands, a producer must go through either the lease by application process (LBA) or the lease by modification process (LBM). Essentially, the amount of new coal to be obtained determines which process.

The overriding concern with coal permitting can be narrowed down to time, cost and risk.

TIME

Thirty years ago, it was possible for a coal company in Wyoming to acquire rights to develop a coal deposit, obtain all permitting and have revenue from the sale of the coal within 2 to 5 years. Today, due to redundancies in the regulatory process, litigation, delays by the Department of the Interior (DOI) and significant levels of judicial advocacy from judges, once a coal producer obtains the right to mine coal, it should expect at least 8–12 years to maneuver through the regulatory and legal systems before selling its first ton of coal from the property.

This is not hyperbole. The current process takes at least 8 to 12 years. I say ‘at least’ because there is not much evidence lately of an LBA or LBM being approved—just 2 in the last 10 years. The DOI is dealing with three coal cases in the 9th Circuit currently (Montana). Each case has been subject to extraordinary delays, inaction and almost neglect from the Department of the Interior and the Biden Administration. The actions of DOI, presumably with the consent of the Administration, have further delayed these projects immeasurably. There are thousands of jobs and hundreds of millions of dollars in state and federal revenue through royalties and taxes at stake in just these three cases.

COST

The financial implications associated with the LBA process and the LBM process are the same. The public nominates an area for the Bureau of Land Management (BLM) to sell. The BLM then reviews each application submitted by the public to make sure it complies with land-use plans. Next, a Regional Coal Team consisting of members from federal, state, local, and tribal governments reviews the application, consults the public and decides whether to continue, change or reject the application. At this point, BLM prepares an Environmental Impact Statement (EIS) or Environmental Assessment (EA) for public comment in accordance with the National Environmental Policy Act. Next, BLM prepares to sell the lease. In advance of the sale, BLM estimates the fair market value of the coal lease. BLM holds a lease sale where each bidder submits a sealed bid, and BLM opens the bids publicly. The highest bid wins, so long as it is equal to or greater than the coal tract’s presale estimated fair market value, and the bidder meets all requirements (such as paying fees). Once BLM accepts a bid, the bidder must pay one-fifth of the bonus and the first year’s rent.³

The key to point out for this discussion is the last sentence: the need to pay a large sum of money up front, prior to getting permits and many years before actually mining. The amount of coal historically obtained from the LBA process is in the hundreds of millions of tons. The ‘cost’ of purchasing the coal (the bonus bid) has varied over the last 23 years, but the average bonus bid per ton in Wyoming has been just over \$0.86 per ton (the range is \$0.30—\$1.35). Those bids were for an average of just under 271 million tons (the range is 42.8 million tons to 793 million tons).

Using these historic numbers, I would like to present an illustrative example. Assume NTEC wanted to acquire more tons on federal land in Wyoming. After the lengthy process to get the BLM to initiate the sale, we may be able to acquire 250 million tons at a bonus price of \$0.85 per ton. (There would be other costs associated with the sale—such as land rents, fees, etc.—but those are being ignored for simplicity.) Under this hypothetical, NTEC would then be required to pay the federal government \$212,500,000 over the next five years for the right to mine that coal. \$42,500,000 would be instantly due and payable, and \$42,500,000 on each of the next four anniversary dates of the sale. That expense would have to be incurred despite the now certainty under the current regulatory scheme that operations would never commence for 8–12 years, if at all.

³ <https://revenue.data.doi.gov/how-revenue-works/coal/>

RISK

The past decade has not been economically kind to the coal industry. Pressures from ESG investors and ESG policies at banks and insurance companies have significantly reduced the amount of financing and insurance that is available to coal companies. Reduced players in the market mean that costs of capital, cost of bonding and costs of insurance have all skyrocketed over the past 7 years. Additionally, the pressures from the Biden Administration and NGOs on all fossil fuels—but especially coal—have had a drastic impact on the behaviors of utilities throughout the country. Due to economic pressures, the vast majority of coal companies filed for bankruptcy protection in the last 8 years. The economic reality for the coal industry is that margins are very thin. The future is not settled.

With these facts as background, I go back to the illustrative example above. There are less than 20 years of reserves permitted in the Powder River Basin. If NTEC acquires an ‘average’ amount of coal through an LBA, we will need to pay \$42,500,000 per year starting when we win the bid. However, as stated, under current regulations and processes, after spending in excess of \$212,500,000 for the new coal, NTEC will not see a penny of revenue from that purchase for at least another 8 to 12 years due to permit delays. In today’s environment, it is highly unlikely that any coal company has \$212 million sitting around to float for up to 12+ years. It is highly unlikely that any of the publicly-traded companies could justify that expense to their shareholders.

As such, it is highly likely that without significant changes, the United States will be out of permitted coal well before we have developed other technologies to keep our national electricity grid stable. While this anticipated result is certain to be celebrated in many quarters, it should be a source of dire concern for the future of the U.S. energy sector and the economy as a whole.

Question 3. With the anticipated closure of the Four Corners Power Plant on the Navajo Nation in 2031, how is NTEC working to replace the revenue which provides an annual 39% of the Navajo Nation general fund?

Answer. As I stated in my prior written testimony, NTEC and the Navajo Mine, in combination with the Four Corners Power Plant (FCPP), provides 39% of the revenue to Navajo Nation’s general fund on an annual basis. This is in addition to the 400+ high paying jobs on the Nation, the free coal which NTEC provides for Navajo and Hopi families to keep their dwellings warm during the winter months and the other charitable efforts and development sponsored by NTEC and our vendors.

The owners of FCPP have announced their intention to exit the plant in 2031. While NTEC is working to diversify its operations, there is no comparable opportunity for Navajo families to earn commensurate wages or learn valuable job skills. The Navajo Nation has no other comparable source of revenues. Closure will eliminate millions of dollars of revenue to the Nation while immediately putting hundreds of Navajo and Hopi out of work. Again, this is not a theoretical statement. The Navajo Nation is already experiencing the crushing consequences of the closure of the NGS generating plant and the associated Kayenta Mine. There is simply no doubt as to the inevitable results of a closure of the FCPP.

There is no commercial reason to close the FCPP, but the current owners are under extreme pressure from state energy policies, like the New Mexico Transition Act, ESG investment funds and outspoken ESG activists. These external forces are controlling the future of the FCPP without consultation with the Navajo Nation and despite the fact the FCPP and the Navajo Mine are located entirely within the boundaries of the Navajo Nation.

Ten years ago the Nation took ownership of Navajo Mine to assert self-determination, sovereignty and control over its natural resources, but forcing energy policy restrictions on the FCPP will leave the Navajo Nation again without dominion or control of its own resources. While the anticipated closure of the FCPP would have catastrophic economic impact to the Navajo Nation—it does not seem to matter to the current policy leaders.

The FCPP must not be forced to close. Period. The electricity that it provides for the southwest is desperately needed today—let alone as we transition to an electric vehicle future (with estimates of doubling the electricity demand by 2035). Further, the FCPP is simply too important to the Navajo Nation to close.

NTEC believes that carbon capture has an essential role to play to ensure that the future energy mix provides stable electricity. There are a number of power plants that are ideal for carbon capture, and the Four Corners Power Plant is one of them. We believe this plant should become a priority project to give the Navajo

Nation self-determination, control over its resources, and to treat it as the sovereign nation it is.

However, there are many in opposition to the development of carbon capture. Many NGOs have stated that even though carbon capture has the ability to capture 95%+ of the CO₂, the technology should not be developed. They do not want carbon capture development because it would allow coal to continue to be utilized to provide cheap, reliable energy. The unstated premise, that the NGO's "know what is best" for the Navajo, is just a continuation of decades of patronizing decisions made off the Navajo Nation without any acknowledgment of the Navajo Nation's ability to govern its own affairs.

NTEC, as an investor in and promoter of carbon capture and sequestration technology (CCS), sees an opportunity for the Navajo (and the United States) to be a global leader in decarbonization strategies that provide for the continued utilization of our nation's expansive coal resources. We would be able to take carbon capture technology to all areas of the world—especially those that are energy poor—and provide stable, reliable electricity to the 30% of the world that cannot rely on it currently. [As an added bonus of the United States exporting coal to the world, the federal government gets the revenue from the 12.5% royalty on coal from federal lands (most of the coal in the western United States).] Further, the coal will be mined in accordance with the most extensive reclamation and environmental standards on the planet. Finally, coal on the Navajo Nation and in the United States is mined by adults and in compliance with the strongest labor and safety regulation in existence.

I appreciate the opportunity to respond.

The attachment to this document is part of the hearing record and is being retained in the Committee's official files.

The attachment is available for viewing at: <https://docs.house.gov/meetings/II/II00/20230208/115287/HHRG-118-II00-20230208-SD017.pdf>

The CHAIRMAN. Thank you for your testimony. The Chair now recognizes Mr. Somers for 5 minutes.

STATEMENT OF BRIAN SOMERS, PRESIDENT, UTAH MINING ASSOCIATION, SALT LAKE CITY, UTAH

Mr. SOMERS. Good afternoon. I would like to thank Chairman Westerman and Ranking Member Grijalva and the rest of the Committee for the opportunity to appear today. And thanks also to Congressman Curtis for being Utah's voice on this Committee.

I am Brian Somers, President of the Utah Mining Association, which was founded in 1915 and represents Utah's hardrock, coal, and industrial mineral mine operators and related support industries. UMA also works closely with Utah—with the National Mining Association and other state and regional industry groups. UMA's mission is to advocate on behalf of Utah's mining industry, its workers, and the communities they support.

Mining is a critical industry in Utah, contributing \$7.7 billion to the state's GDP, supporting nearly 57,000 direct and indirect jobs, and powering Utah's broader economy by producing the coal which provides 62 percent of Utah's low-priced electricity. Mining jobs in Utah are family and community-sustaining jobs, with mining salaries averaging over \$83,000 annually, which is 37.5 percent higher than the average Utah wage.

It is important to recognize mining is something most people never experience firsthand, and yet they benefit from the products made possible by mining every single day. From smartphones to

medical devices, consumer electronics to new energy technologies and national defense systems, our modern economy and quality of life are supported by mined minerals. Demand for minerals is expected to increase radically in coming years, yet domestically produced minerals currently meet less than half of the needs of U.S. manufacturers, creating an untenable strategic vulnerability for economic and national security.

To put this demand in the context of the energy goals of the Biden administration, a 2021 International Energy Agency report stated that “to hit net-zero globally by 2050 would require six times more mineral inputs than today.”

A 2022 report on copper demand from S&P Global also stated, “Substitution and recycling will not be enough to meet the demands of electric vehicles, power infrastructure, and renewable generation unless massive new supply comes on-line in a timely way. The goal of net-zero emissions by 2050 will be short circuited and remain out of reach.”

Our nation’s lack of a clearly defined minerals policy is undermining our ability to supply our own mineral needs and support future economic growth.

The U.S. mine permitting system is duplicative, inefficient, and unpredictable, leading to an average Federal permitting time frame of 7 to 10 years. Compounded by the inevitable litigation from environmental groups, the U.S. permitting process is one of the longest in the world. Countries like Canada and Australia, which have stringent environmental safeguards like the United States, can get mines through permitting in 2 to 3 years.

In Utah, mines on state and private lands can be permitted in a time frame similar to those in Canada and Australia. However, two-thirds of Utah’s land, land which contains many of our state’s substantial mineral resources, is controlled by the Federal Government. The current Federal permitting regime obstructs domestic mining and blunts our ability to compete globally. Lengthy delays deter investment and encourage dependence on countries like China, Russia, and the Congo, which have abysmal environmental, labor, human rights, and governance records.

According to the 2023 USGS mineral commodity summaries, the United States is more than 50 percent dependent on foreign imports for a staggering 51 important mineral commodities, including 15 commodities for which we are 100 percent import reliant. China was the largest single source of foreign mineral imports in 2022. This import reliance is a threat to our nation, and it is unnecessary.

Of those 51 mineral commodities for which the United States is more than 50 percent import reliant, Utah has current production, historical production, or established resources for 20 of them. Fully developing our mineral potential in Utah, just one state, could significantly diminish our country’s need for foreign imports. Imagine if we could responsibly develop all of our nation’s vast mineral estate, guided by our world-class environmental and safety standards, and employing a highly skilled and highly paid workforce.

To encourage investment in America’s mineral resources, both in mineral production and in processing, the Federal Government

must fix its broken permitting processes, set clear time frames, establish a lead agency to promote certainty and accountability, and enact policies that ensure access to mineral deposits.

I applaud Chairman Westerman for introducing the Securing America's Mineral Supply Chains Act, and Congressman Stauber for reintroducing his Permitting for Mining Needs Act. These bills will enable our nation to responsibly develop our mineral resources, reshore supply chains, support domestic manufacturing, and secure our economic and national security.

Thank you for the opportunity to testify today, and I look forward to any questions.

[The prepared statement of Mr. Somers follows:]

PREPARED STATEMENT OF BRIAN SOMERS, PRESIDENT, UTAH MINING ASSOCIATION

Good morning. I would like to thank Chairman Westerman and Ranking Member Grijalva for the opportunity to appear today. Thanks, also, to Congressman Curtis for being Utah's voice on this committee. I am Brian Somers, president of the Utah Mining Association (UMA), which was founded in 1915 and represents Utah's hardrock, coal, and industrial mineral mine operators and related support industries. UMA also works closely with the National Mining Association and other state and regional industry groups.

UMA's mission is to advocate on behalf of Utah's mining industry, its workers, and the communities they support. Mining is a critical industry in Utah, contributing \$7.7 billion to the state's GDP, supporting nearly 57,000 direct and indirect jobs,¹ and powering Utah's broader economy by producing the coal which provides 62% of Utah's low-priced electricity.² Mining jobs in Utah are family- and community-sustaining jobs with mining salaries averaging \$83,280 annually, which is 37.5% higher than the average Utah wage.³

It is important to recognize that mining is something most people never experience firsthand, yet they benefit from the products made possible by mining every single day. From smartphones, medical devices, and consumer electronics to new energy technologies and national defense systems, our modern economy and quality of life are supported by mined minerals.

Demand for minerals is expected to increase radically in coming years, yet domestically produced minerals currently meet less than half of the needs of U.S. manufacturers, creating an untenable strategic vulnerability for our economic and national security.

To put this demand in the context of the energy goals of the Biden Administration, a 2021 International Energy Agency report stated that, ". . . to hit net-zero globally by 2050, would require six times more mineral inputs . . . than today."⁴ A 2022 report on copper demand from S&P Global also stated, ". . . substitution and recycling will not be enough to meet the demands of electric vehicles (EVs), power infrastructure, and renewable generation. Unless massive new supply comes online in a timely way, the goal of Net-Zero Emissions by 2050 will be short-circuited and remain out of reach."⁵

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In Utah, mines on state or private lands can be permitted in a timeframe similar to those of Canada and Australia. However, two-thirds of Utah's land—land which

¹ McCarty, T.J., Wang, Z., Kim, M., and Evans, J., 2022, The economic contribution of Utah's energy and mining industries: Utah Geological Survey Miscellaneous Publication 176, 12 p., 4 appendices, <https://doi.org/10.34191/MP-176>

² <https://www.nei.org/resources/statistics/state-electricity-generation-fuel-shares>

³ <https://jobs.utah.gov/wi/data/library/wages/annualprofilewages.html>

⁴ IEA: The Role of Critical Minerals in Clean Energy Transitions

⁵ S&P Global—The Future of Copper: Will the looming supply gap short-circuit the energy transition?

contains many of our state's substantial mineral resources—is controlled by the federal government. The current federal permitting regime obstructs domestic mining and blunts our ability to compete globally.

Lengthy delays deter investment and encourage dependence on countries like China, Russia, and the Congo which have abysmal environmental, labor, human rights, and governance records. According to the 2023 USGS Mineral Commodity Summaries,^{6,7} the U.S. is more than 50% dependent on foreign imports for a staggering 51 important mineral commodities, including 15 commodities for which we are 100% import reliant. China was the largest single source of foreign mineral imports in 2022.

This import reliance is a threat to our nation, and it is unnecessary. Of those 51 mineral commodities for which the U.S. is more than 50% import reliant, Utah has current production, historical production, or established resources for 20 of them. To give just one example, the U.S. imports 100% of the indium we use. Indium is a mineral used in nearly every product with a touchscreen. According to the Utah Geological Survey, Utah has an established indium deposit that could supply the entire U.S. consumption of indium for 14 years.⁸

Fully developing our mineral potential in Utah—just one state—could significantly diminish our country's need for foreign imports. Imagine if we could responsibly develop all of our nation's vast mineral estate—guided by our world-class environmental and safety standards, and employing a highly-skilled and highly-paid workforce.

To encourage investment in America's mineral resources—both in mineral production and in processing—the federal government must fix its broken permitting processes, set clear timeframes, establish a lead agency to promote certainty and accountability, and enact policies that ensure access to mineral deposits.

I applaud Chairman Westerman for introducing the Securing America's Mineral Supply Chains Act and Congressman Stauber for reintroducing his Permitting for Mining Needs Act. These bills will enable our nation to responsibly develop our mineral resources, re-shore supply chains, support domestic manufacturing, and secure our economic and national security.

Thank you for the opportunity to testify today and I look forward to your questions.

QUESTIONS SUBMITTED FOR THE RECORD TO BRIAN SOMERS, PRESIDENT, UTAH
MINING ASSOCIATION

Mr. Somers did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Westerman

Question 1. In your testimony, you discuss the decade-long timeline for permitting hardrock mines on federal lands, compared to only a few years on state or private lands. I understand that even locating viable deposits of hardrock minerals can take many years, a much longer exploration process than for oil, gas, or coal.

- *Given your experience with differences between state and federal permitting in Utah, what would be the most meaningful changes to the federal permitting structure to increase efficiencies while maintaining our environmental standards? Do longer timelines yield better environmental review or safer mining practices?*

⁶ USGS Mineral Commodity Summaries 2023

⁷ The U.S. Releases Signed MOU with the DRC and Zambia to Strengthen EV Battery Value Chain

⁸ Mills, S.E. and Rupke, A., 2020, Critical minerals of Utah: Utah Geological Survey Circular 129, 49 p., <https://doi.org/10.34191/C-129>

The CHAIRMAN. Thank you, Mr. Somers, and thank you again to all the witnesses. We are now going to go to Member questions. We are going to start with Mr. Carl from Alabama.

I recognize you for 5 minutes.

Mr. CARL. Thank you, Mr. Chair.

Mr. Somers, the Alabama Graphite Belt, which is located in Coosa County, Alabama, has some of the world's best reserves of a critical energy material, but a lack of commitment to these resources has led to the suspension of the development over the last several decades.

Simple question: How does the U.S. government plan to encourage the private sector to re-develop graphite resources in order to maintain Americans' ability to access critical materials as and when needed, rather than relying on China or other unreliable fuel suppliers?

Mr. SOMERS. Thank you, Congressman. I think that we don't have any graphite resources in Utah—I wish we did—but we have a lot of other critical minerals that have also either not been developed, or they have had to stop development.

And I think that, for the Federal Government to focus again on permitting issues that add a lot of delays to the process, and also to encourage and incentivize domestic manufacturing and processing, in many cases, the reason that we don't have these minerals produced in the United States is because, frankly, they are produced more cheaply elsewhere.

And a lot of that is a function of, as I mentioned in my testimony, because you have countries that don't have the same kind of environmental and labor safeguards and, in some cases, there is flat-out market manipulation, where they will sell critical minerals into the commodities markets for less than what they cost to produce.

Mr. CARL. Right.

Mr. SOMERS. So, I think, until we find ways to incentivize production of some of these mineral resources, and in some cases even require them, if there is a national defense system or something else that calls for some of these resources, it is going to be very difficult for us to continue to compete on a global scale.

Mr. CARL. Thank you very much.

Mr. Chair, I ask unanimous consent to submit a letter from Warrior Met Coal for the records. If I can get that entered.

The CHAIRMAN. Without objection, so ordered.

[The information follows:]

Statement for the Record

D'Andre Wright
Vice President of External Relations
Warrior Met Coal

February 8, 2023

Warrior Met Coal is a U.S.-based environmentally and socially minded supplier to the global steel industry. We are dedicated entirely to mining non-thermal metallurgical coal used as a critical component of steel production by metal manufacturers.

We commend the chairman for holding this hearing on “Unleashing America’s Energy and Mineral Potential” and for adopting the robust oversight agenda that includes coal and the Mineral Leasing Act.

All across America mining companies are working hard to extract the materials needed for all kinds of essential manufacturing including steel needed for green technologies like electric vehicles and renewable energy. However, this hard work will go to waste if the Biden Administration is not willing to approve routine development of our federal natural resources.

As you know, thermal coal is critical for energy production in the United States. Equally critical in manufacturing is metallurgical (met) coal used for steel production. We recognize that the Committee is concerned about the Biden Administration’s current war on coal—both thermal and met—and we share that concern.

Today we want to focus on met coal and on the continued inaction by Department of Interior (DOI) on a critical met coal lease by application in Alabama. The coal lease is very important to the State of Alabama as the royalties from the underground mine would provide much needed revenue to the State of Alabama and impacted counties throughout the state, as well as the Port of Mobile, one of the nation’s largest coal terminals.

Of particular concern is that the Department of Interior completed the Fair Market Value (FMV) and the Social Cost of Carbon analysis in May 2022. In late June, senior officials at Department of Interior told senior Senate staff that all coal leases (thermal and met) were frozen. This particular lease by application, which is 95% complete, has been sitting in the Solicitor’s office with no movement, correspondence, or follow-up to provide a speedy resolution. This is an unacceptable delay that goes against the Mineral Leasing Act—which requires that the federal government to “maximize economic recovery of coal within a proposed leasing area.” Further, it represents a new front on the war on coal including met, which is not subject to any federal moratorium. This brazen overreach sets a dangerous precedent for every bit of coal used for energy production and every bit of coal or mineral used for manufacturing of steel, electric vehicles, and renewable energy.

Continued delays on the part of DOI will certainly violate the Mineral Leasing Act as much of the coal with go un-mined due to the delay and will potentially cost the state of Alabama \$300 million.

Not just state of Alabama that stands to lose needed revenue—the federal government will also potentially lose over \$300 million in royalties at current pricing. This revenue from coal royalties provide critical funding for DOI programs. This is even more critical as the House and Senate Republicans are looking to make cuts to the Department of Interior budget.

It simply does NOT make sense to willfully and intentionally delay a project that is 95% completed. The time has come for Department of Interior to complete its work on this important lease and show they are willing to roll up their sleeves for the American people.

Mr. CARL. Mr. Adams, my district, which has the Port of Mobile, we are very proud of our coal exporting there. In Fiscal Year 2022, the port exported about 10 million metric tons of met coal.

For those of you that don’t know what met coal is, it is coal that is primarily targeted for the metal industry, melting metals.

We are in a unique situation in Alabama, in that we mine it in central Alabama, which supply the jobs and, obviously, everything that spins off in Jasper and up in central Alabama. We bring it

down the river system that we have been so blessed with into the port of Mobile, and the port of Mobile creates many, many jobs, which we take and we load it on vessels.

Most of these vessels are going to Brazil. They go to Brazil, where they are used in the furnaces there. They are heated into metal. The metal comes back to the Port of Mobile. It is unloaded in the Port of Mobile. We take it up to our steel mills, which are right up the river system. It is stamped out, and it winds up in one of your automobiles that you are probably driving today, whether it be a Mercedes—we have about seven different manufacturers in Alabama, and it is all done because of met coal. That is where it all starts. That is what I want us to focus on here real quick.

Can you discuss the economic benefits, if you are able, because you have a similar situation, obviously, on the Navajo Nation, which I am very sensitive to anything dealing with our ancestries there. Can you discuss the economic benefits if we were able to export our coal to more locations throughout the United States? Would it be a similar story?

And what barriers are in place to increase you to export that?

Mr. ADAMS. Congressman, thank you for your question. We actually export thermal coal, as well, but we have huge roadblocks in being able to do that. The Port of Mobile is a world-class port. I wish we had 15 of them around the United States.

The jobs that Mobile has, the economy that is built off of that shipping, everyone should be envious of that. And that opportunity is there for many other states, for many other cities who do not take it.

We could easily place 40 million-plus tons a year into the Asian market. They love American coal. It is consistent, it is high quality. We would get most in the West, most of ours on Federal land. So, the Federal Government would get 12.5 percent of that revenue.

But we have had every coal port on the West Coast shut down. Governor Inslee in Washington or the Army Corps of Engineers have shut down every single project to export coal out of the West. So, that puts a lot more pressure onto the limited coal ports that there are.

The East is lucky with the met coal. We don't have met in the West. We are all thermal, with few exceptions. But we need more ports, we need to participate. We need to replace Russian coal in the international market, which is absolutely a player. We need U.S. coal in that revenue.

Mr. CARL. Thank you, sir.

Mr. Chair?

The CHAIRMAN. The gentleman yields back. The Chair now recognizes Mr. Curtis for 5 minutes.

Mr. CURTIS. Thank you, Mr. Chair. Thank you, witnesses. This is a great hearing.

As I listened to your testimonies, it caused a lot of reflection in my mind, gentlemen. I represent, as Brian knows, a district in Utah that has a county by the name of Carbon County. I would love to ask my colleagues here, what do you suppose they do in Carbon County?

[Laughter.]

Mr. CURTIS. And what I have seen over the 5 years that I have represented them is what I call the demonization. And, unfortunately, not just the demonization of coal, but the demonization of people. And what is unfortunate about that is these are the very people who have sacrificed their health, have sacrificed their safety for generations and generations so the rest of us can go over to a wall switch, and flip on the switch, and have the lights come on and keep the temperature at 70 degrees. And I wish more often people felt a little more connection with where this power source came from, and appreciation for these very, very good men and women.

And Mr. Franklin, much of this is the Navajo Nation. I take in about a third of the Navajo Nation. There are about five tribes that have a connection, even though they don't all live in my district. And I have watched things like the Hopi Nation lose 80 percent of their revenue when they shut down the coal-fired power plant there by Antelope Island. And sometimes we talk about environmental justice, and I wonder where is the justice to these communities dealing with these issues. And I think frequently, because it is unseen, that it is not dealt with.

And Mr. Franklin, I also express a commitment to you to better understand some of the things that you have told us in your testimony and how it impacts those people. I know there are a lot of uranium mines that have not been resolved in—not just in the Navajo area, but throughout my district. I think it is important that we, as we go forward, we also look back and make sure we are being good stewards there, as well.

Imagine the hypocrisy in Carbon County when they see that there is actually not enough coal coming out of their coal mines for the coal-fired power plant there because it is going overseas to Europe at a much higher price, and being burned by our European counterparts who brag and shout from the house tops how clean they are. Yet, they are paying sometimes upwards of 400 percent more for that coal than the contracts in those local coal plants are. And it is viewed as nothing but hypocrisy, right, by these good men and women.

And Mr. Somers, thank you for being here. You mentioned in your testimony this problem that we have that two-thirds of our state is owned by the Federal Government. That is exasperated in much of my district. Now, wrap your arms around this: seven of the counties I represent are 90 percent federally owned. So, imagine trying to eke out a living, an economy, anything when 90 percent of the land doesn't pay property tax, where there is an attack to keep all mining off of these Federal lands.

And Brian, somehow the state is able to regulate these and meet the high standards, where the Federal Government isn't. What lessons would you like the Federal Government to learn from Utah's permitting program that we might be able to implement federally?

Mr. SOMERS. Thank you very much, Congressman. I think that, again, in Utah, if a mining operation is primarily on state or private lands and doesn't have a significant Federal overlap, again, we can get them through the permitting process in 2 to 3 years versus, you know, 7 to 10 years on the Federal side.

And I think a lot of that is just the fact that there are clear delineations of authority and responsibility to our state agencies, so you don't have this massive overlap, where you never quite know exactly where your permit is in the process, and which agency you need to go and talk to. And I think even just that one step of having a centralized agency, a primary lead agency for permitting on the Federal side would be a great first step to take.

Mr. CURTIS. Are you aware of any shortcuts or environmental damages that occur because our process is two or three times quicker?

Mr. SOMERS. No.

Mr. CURTIS. Could anybody here point to anything that puts the land in jeopardy because our processes are two or three times quicker?

Mr. SOMERS. No, and I think that part of the advantage, frankly, of having the state have primacy in some of these permitting processes is the fact that, if something does go wrong, if there is a local concern, you actually know who to go and talk to. You can talk to the head of DEQ, the head of DOGM, our Division of Oil, Gas and Mining. You can talk to the member of the legislature that represents those communities, and there is much more political accountability.

Mr. CURTIS. I wish I had more time. Thank you, witnesses.

Thank you, Mr. Chairman. I yield.

The CHAIRMAN. The gentleman yields back. The Chair recognizes Ms. Leger Fernández from the state of New Mexico for 5 minutes.

Ms. LEGER FERNÁNDEZ. Thank you so much, Chair Westerman, and thank you, Ranking Member, for bringing this hearing together.

And what a wonderful panel. I have read your written testimonies and know a lot about some of the issues around here.

I want to begin by recognizing the really hard work of the people, men and women, who work in the mining industry, who have powered our nation up to this point. We need to recognize how essential that was and is.

And Mr. Adams, I think that you are showing that, right, on the Navajo Nation, as well. And I think that there is an interesting difference about what is happening on the Navajo Nation when it is itself controlling its destiny and what it wants to do with its minerals. That is, in essence, what you are working on on behalf of the Navajo Nation, correct?

Mr. ADAMS. That is correct, as an autonomous energy company helping the Navajo by managing and producing off of those assets and helping the Nation.

Ms. LEGER FERNÁNDEZ. Yes, I mean, and that is great. And I want to contrast that with the 1872 mining law. In the 1872 mining law, we are basically, because we haven't updated that, look, imagine, just to say 1872, and the idea that we haven't updated a law from a couple of centuries ago, right? It is like we don't have—it is 18, right?

And the fact that some of the companies that are coming in and seeking to exploit the resources and to take those precious materials that we do need for so much of what we have, a lot of them are actually foreign corporations. And because of the way the

1872 mining law is structured, we have subsidiaries of Chinese companies, right, in Arizona looking for mining. In Pecos, which is where my family is from, there is a desire to have additional mining, and it is also a foreign company that is doing that. And that is why I think these resources are precious, but they are American resources.

I wanted to also touch on the fact that there is a lot of damage still left behind, as you noted, right, from the uranium mines, the Gold King mine spill. My constituents have come to me, and we have worked on those issues together.

But I wanted to turn a bit to THPOs and the role that they need to play. And thank you so very much, Chairman Franklin, for what you have done in pushing these issues. Do you believe that the current 1872 mining law provides adequate environmental protections for mining projects located near tribal lands?

And what would you suggest as updates?

Mr. FRANKLIN. Yes, that is a great question. I feel it is like being a Major League Baseball hitter and having a softball thrown at you. Like, so yes, absolutely. It fails tribes, the 1872 law does. And a good example of it is our brothers and sisters in Tohono O'odham.

And I want to apologize first that I am going to mention human remains in that tribe specifically, and mean this in no disrespect whatsoever, but I think it can't be ignored. The Anamax Mining Company that had gone into the Santa Rita Mountains and mined, and in the process damaged severely a large village site, left human remains on the surface, mined right through their cemetery, and it destroyed artifacts and sacred sites.

And that is kind of what I was talking about earlier. This is the kind of thing that we need to avoid, but that happens because there is nothing to protect inside of that law. And, by the way, that is not even an American company. And when they went bankrupt, they left it all on the surface. And now there is another company that is from Canada that is trying to come in and assume that mine again.

So, these are just examples of ways that we need to be better, I think, protect not just Tohono O'odham's history or American Indians' history, but, really, it is the history of the entire country, as well.

Ms. LEGER FERNÁNDEZ. And this sort of abandonment of mines happens way too often. That is indeed the case, where taxpayers then end up holding the bag for remediation. Right? And the need for the cleanup.

And I really look forward to working with the Chairman and my colleagues so that we could reauthorize the Historic Preservation Fund. I carried a bill on that, because all the work that we need to do, it can be done right, right? I think that there is an understanding that there is a way of doing this important work, but it is how you do it and where you do it that is very important. And we need to answer those questions before we start digging up some cemeteries.

And I offer my shared sadness about what happened, as you pointed out.

With that, Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back. The Chair recognizes the gentleman from Minnesota, Mr. Stauber, for 5 minutes.

Mr. STAUBER. Thank you, Mr. Chair.

Mr. Somers, thank you for joining us today. I appreciate and share your passion for mining. Like in Utah, it provides family-sustaining wages along with a pride of supplying our nation with our resources, just like in my district in northern Minnesota.

And I also want to thank you for mentioning my bill, the Permitting for Mining Needs Act. In Section 3, it limits environmental assessments and environmental impact statements to 1 and 2 years, respectively. Can you discuss how limiting these time frames will expedite the permitting process, and also clarify that, even with a time limit, we can ensure all environmental safeguards?

Mr. SOMERS. Thank you, Congressman.

As has been discussed, even with the previous panel, a lot of the problems that we run into with Federal permitting is the fact that these processes can be dragged out for years and years and years, and there are not strict timelines that are established in Federal law that would help to expedite these processes.

And, again, if you look at foreign countries like, as I mentioned, Canada, Australia, these are countries that have very similar environmental safeguards that we do.

And the mining industry wants to develop the mineral assets of this country in an environmentally sensitive way. That being said, you can have a rational time frame that allows for adequate environmental review without stretching these things out to 7 to 10 years and beyond.

Mr. STAUBER. Well, Mr. Somers, I would say that I have heard you and a couple other folks say that 3 to 5, 5 to 7 years for mining. I will let you know that in the Duluth complex in northern Minnesota, the biggest copper nickel find in the world, which Joe Biden just banned mining in that district. But there is a company in its 20th year of permitting, and then there is another one within 9 years of the permitting process. And it is just unfortunate, especially if we want to hold ourselves to the highest environmental and labor standards we mine in America. Thank you very much.

Mr. HOLLOWAN, thank you for joining us today. Your testimony, like Mr. Somers, discussed how our foreign rivals control the international minerals market. It also briefly discusses the Inflation Reduction Act, which we were told was meant to reduce inflation. But according to your testimony, it allows metals mined in Indonesia, for example, and processed in China to qualify for IRA funding.

Is this true, and can you expand on how these IRA funds also boost Chinese manufacturing?

Mr. HOLLOWAN. Thank you, Congressman. That is a very good question, and I am glad you asked it.

It was a shock to me. I just came back from Korea, where I was talking to some of the big FTA battery companies, and they were discussing the IRA and the domestic content requirements. Now, as far as I know, these domestic content requirements are not settled. It is still being discussed. There is a negotiation.

But the Korean battery makers were interested in doing business in America, in building processing in America, in partnering with groups like us. Yet, they were conflicted, because they were being told by U.S. OEMs that, you know what, you already have processing of Chinese-owned Indonesian metal that goes to a 49 percent Korean-owned processing plant in China, and that will qualify. All we have to do is send it in an intermediate product, and then roll it into a battery in America. And that is going to qualify.

And this is something that I think needs to be known, that that is not right. I have spoken to people right and left that say, no, that is not the intent of the law.

Mr. STAUBER. What you just described—excuse me, but what you just described is American taxpayer money going overseas to foreign, in some cases adversarial, nations to mine those critical minerals.

Mr. HOLLOWMAN. It will be, if we are giving a \$7,500 taxpayer rebate for an electric vehicle that has its metals mined and processed by the Chinese. That absolutely will happen. It hasn't happened yet, because we don't have that implementation, but it is coming soon, and we need to get ahead of it.

It is something I think is important for you all to know, that that cannot be the domestic content requirement. We need it to be processed and mined in the USA—we can do a lot of it here—or the free trade agreement countries, as well. But let's try to get as much as we can, especially nickel and cobalt, here.

Mr. STAUBER. I agree. Thank you very much.

Mr. Chair, I yield back.

The CHAIRMAN. The gentleman yields back. I now recognize Ranking Member Grijalva for 5 minutes.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Mr. Somers, question. Part of the discussion, almost the entire discussion, has been about NEPA and how it slows the ability for full extraction of gas, oil, mining, et cetera.

Another piece of legislation that guides the mining industry is the 1872 law. And like was stated about NEPA, that it is time to fine-tune it, bring it up to date to these times. Do you feel the same? Do you feel that this Committee should explore that, as well, with the 1872 mining law?

Mr. SOMERS. Thank you for the question. I think that any Federal statute is not going to be perfect, and there are opportunities to refine them. But I do think that it is necessary to clarify that the mining law of 1872 is a land tenure law. It is the law that guides how you get the legal rights to develop mineral opportunities here in the United States. It is not an environmental protection or conservation law.

For that we have NEPA, the Clean Air Act, the Clean Water Act, we have NAGPRA. I mean, there are a number of different—

Mr. GRIJALVA. Thank you, sir.

Mr. SOMERS. Yes.

Mr. GRIJALVA. Thank you, sir. Just the 1970s and the 1870s, that is the difference I was trying to draw to.

Mr. Holloman, you mentioned in your testimony having to do business with foreign mining entities, multi-national corporations

that work in other parts of the world that exploit people, horrible labor standards, no concern for environmental protections or clean air, clean water issues, do you feel those kind of entities should be allowed to do business, if they are violating at that level in other countries, do business on public lands and waters here in the United States?

Mr. HOLLOMAN. Absolutely not.

Mr. GRIJALVA. And any look at going forward in the future, those kinds of bans and restrictions would be appropriate?

Let's say Rio Tinto has a horrible history in other parts of the world, but has major mining industries here in the United States. Should they be banned from doing business on public land?

Mr. HOLLOMAN. They should be looked at very closely. The foreign entities that are not keeping the standards up to American standards elsewhere in the world must be looked at.

The Congo, for example—

Mr. GRIJALVA. I appreciate that.

Mr. HOLLOMAN [continuing]. You have all types of mining.

Mr. GRIJALVA. Thank you, Chairman Franklin, for being here with us.

I think one of the misunderstood issues about something as being slowed down in terms of the points that you were making fails to recognize that, in many—whether it is Oak Flat, whether it is the Santa Rita, whether it is other issues affecting tribes, whether in Nevada and other parts—the issue of sacred sites, cultural and historic resources, why they need to be brought up in the consideration, evaluation, and analysis, and the consultation with the tribes.

Talk about that importance, and why many of the conflicts we see out there between Indian Country and a mining entity or another development has to do with that core issue.

Mr. FRANKLIN. Right. So, let me first say the reason why I think the Navajo's outfit is working so well is they are accountable to their own people. When you bring foreign interests in, they are not accountable to the United States people, unless we hold them accountable. And that is what I would look to all of you to do, and my colleagues up here.

The importance of sacred sites and how that connects, a Canadian mining company doesn't care what they are doing to Indigenous people in the United States. Maybe they do, but they sure haven't been showing it, right? Once those resources are gone, like I was saying earlier, they are gone. When you disrespect the tribal burials like that, by just coming and mining and leaving the human remains on the surface, not even giving them the dignity of reburial, or even inviting the tribe to come along and assist—those are just things that, as a country, I think we are better than.

As a Congress, I know that you are better than, right? And you all have the opportunity to stop those kinds of foolishness from happening. And I know that it is something that is of interest with you, as well. Sacred site protection is of the utmost importance to American Indian tribes. It is right up there with language, right up there with safety, and right up there with our families.

Mr. GRIJALVA. Thank you very much.

I appreciate it, Mr. Chairman.

Mr. Adams, the Navajo Nation consistently, regardless of the administration, their elected officials have voted consistently, resolution and action after action, banning uranium mining in the Nation, banning the transport having to do with the legacy. And as a partner of the Navajo Nation in the business relationship, how do you feel about that?

Mr. ADAMS. I appreciate the question. I can't represent the Navajo Nation or the thoughts of the government. I know that there are a lot of difficult decisions that were made in the past. I know that the policy right now is that they have had issues with uranium, and they don't want to deal with it.

What the future holds, what the new President, Buu Nygren, is going to do with that, we don't know at this point. We are not pushing on uranium angles.

Mr. GRIJALVA. With that, I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back. The Chair recognizes the gentlelady from Wyoming, Ms. Hageman, for 5 minutes.

Ms. HAGEMAN. Thank you, Mr. Somers and all of you gentlemen. Thank you for being here today.

Mr. Somers, thank you for your statements. And you highlighted in your testimony the fact that mining is something most people don't experience firsthand, yet they benefit from its results every day. I agree with that fact and that statement, and that is particularly true of the folks who live right here in Washington, DC.

Wyoming, however, is a mining state. And from being the home of the world's largest trona deposits to its abundant coal reserves, uranium mining, and countless other minerals, mining is a way of life in our state, and a major driver of our economy. When Joe Biden wages war on American mining alongside radical environmental groups, our state suffers and America suffers.

My question to you is, how has the messaging of this Administration toward the mining and coal industry impacted our state's abilities to generate revenue, as well as our ability as a country to lower electricity costs for the consumers?

Mr. SOMERS. Thank for that, Congresswoman. I think that the messaging is unhelpful, and it is also a little confusing, frankly.

I mean, when you talk about some of the new energy technologies and the energy transition goals of the Biden administration, but then you are withdrawing huge tracts of Federal land from development, as Congressman Stauber talked about, as we have seen in Alaska and elsewhere and in Utah, and we have had two very large national monuments that have locked up substantial mineral resources.

And in terms of being able to develop and bring the investment that is needed to develop our mineral resources, which are very expensive and complicated to develop, if you have messaging from the Federal Administration that says on the surface, yes, we want to do all this stuff, but then as you get into Federal permitting, as you get into land withdrawals and all the other things that have been talked about, it sends a very mixed message. So, I do think that it hinders our ability to attract the investment that we need.

And I think also on the coal side, we are a very coal-heavy state, as well. As I mentioned, 62 percent of our electricity comes from coal. And to have those coal communities constantly hearing that

we are shutting down your plants, we are shutting down your mines, it makes it difficult to also get these younger generations of workers to want to come in and work in these very high-paying and highly-skilled jobs.

Ms. HAGEMAN. Thank you.

Over 40 percent of the coal that is produced in this country comes from my state, from the state of Wyoming. So, we play an essential role in keeping electricity costs low for Americans.

I think it is rather unfortunate that this Administration doesn't see the direction the entire world is going with coal production. Coal is the second-largest source for U.S. electricity. Germany and Asian nations have seen a large increase in their reliance on coal power. I know and firmly believe that coal is the energy of the future. And as radical environmentalists try to force their countries into an electrified transition the world is not ready for in terms of minerals mined and processed, lack of infrastructure, and more, coal, however, is there time and time again to keep the lights on.

Mr. Somers, again, can you explain why the United States continues to rely so heavily on coal, and why other nations are seeing an increase in their reliance on coal for power?

Mr. SOMERS. Absolutely. Again, part of this is you use the resources that you have available in your state because there are benefits beyond just providing that inexpensive and reliable dispatchable power. It also has benefits in terms of creating jobs, creating royalties, and moneys for Federal or for local economies.

And I think that part of the reason that the world is moving in that direction of using more coal is the simple fact that we have an energy crunch, generally. You can see natural gas prices that have risen substantially, you have seen disruptions in supply, the renewables have not produced in the manner that they have been, that we were promised that they would produce. So, you need that reliable, dispatchable, inexpensive power, and people will get it.

I mean, we are shipping coal to Europe, we are shipping coal to other parts of the world that we haven't shipped to for decades, frankly, because there is so much demand out there because of the general shortage of energy that we have. And coal is an important part of making sure that people don't freeze to death, frankly.

Ms. HAGEMAN. Coal is affordable, it is accessible, it is clean, and it is the energy of the future. Wouldn't you agree?

Mr. SOMERS. Absolutely.

Ms. HAGEMAN. As I mentioned, certain countries have had to rely more on coal or nuclear energy and power to make up for shortages that are a product of their attempt to force an electrified transition before the world is ready.

Mr. Somers, can you address whether the current Federal policies toward mining have our nation prepared for the electrified future they envision, and whether these Biden administration policies run the same risks here in the United States?

Mr. SOMERS. Yes. I mean, as has been mentioned, there is massive mineral demand that is required for new energy technologies and for energy transition. And frankly, the Federal policies around developing those minerals are not adequate to make sure that we meet that demand.

You know, we do produce a lot of coal, but we also are a major copper producer. We are one of only two states that produces lithium. We produce magnesium, and we produce a lot of things that you need for all of these energy technologies. But the Federal policies are not, again, encouraging investment and, in some cases, are discouraging the development of these resources in an adequate way.

Ms. HAGEMAN. Well, thank you, and thank you, gentlemen, for making our lives better.

I yield back.

The CHAIRMAN. The gentlelady's time has expired, and the Chair recognizes the gentleman from Wisconsin, Mr. Tiffany, for 5 minutes.

Mr. TIFFANY. Thank you, Mr. Chairman. And some of those that you just rattled off, Mr. Somers, we have right in the great state of Wisconsin, and we are not being allowed to mine them with some of the toughest environmental regulations you will find anywhere in the world.

Mr. Franklin, good to have you here today. In your statement here, the government can create fairness in this process by mandating consultation. Are there states that are not consulting with tribes?

Mr. FRANKLIN. Yes. So, as a part of the mining act, you see that happen. And I won't say that states aren't consulting, because our states do a good job of reaching out to tribes and discussing. But for the purposes of this mining act, absolutely. But for the purposes of states, they do.

Mr. TIFFANY. If you could share with me a list of the states that don't consult with the tribes—because I think about the state of Wisconsin. I mean, we specifically have a consultation process, and I would be very surprised that there is a state that isn't. But if there is, I would sure like to see that list, if you don't mind.

Mr. FRANKLIN. Yes, no problem. And I have some staff behind me from the National Association of THPOs that can work and probably get you a list of projects where the consultation that was done was extremely poor.

But I will compliment you on your state. You all have done a fine job. And Menominee certainly is a tribe that has discussed consultation with your state and it being inclusive.

Mr. TIFFANY. Sure. You also state in here, "We do not ask for disproportionate power and recognize the importance of mining." Once again, who is out there that is not giving the information that the tribes want? Because we consistently have that.

Mr. FRANKLIN. So, I have a really good example of that in my written statement, the Tohono O'odham Nation, and I just discussed it a little bit ago. And in this case, these were two foreign mining companies that came in and destroyed their village. But that plays out multiple times across Federal lands when being granted the right to come in and mine under this 1872 mining act with foreign interests.

There is another one that has a permit in the exact same space for Tohono O'odham, where the village was destroyed. There is another foreign mining company that is proposing and asking for

a permit, and I think it might have been granted. That was submitted in 2019.

Mr. TIFFANY. I would just share, Mr. Chairman, part of the reason that we hear that we have all these foreign-owned mining companies is because of the uncertainty of the permitting process, what goes on with NEPA. Why would you, as an American, take your capital and invest in a project here in the United States of America?

Isn't that correct, Mr. Adams, that there is a great discouraging of having domestic manufacturing?

Mr. ADAMS. Yes. And on the coal side, because our permitting—there is an amazing amount of coal in the United States, OK? But from what is permitted, we are in danger. We are looking at 15 to 20 years, and the financial investment that has to take place—if I go win an LBA, and I have to come up with a half a billion dollars to buy that coal, I have to pay that in the first 5 years after getting it. It is going to be at least another 7 years before I get a penny of revenue off of that.

Mr. TIFFANY. By the way, if we could go back to the State of the Union last night, President Biden saying, “Look at these companies that are having all these stock buybacks and things like that,” why would they invest in America, in American energy, when they may have a stranded asset in the very near future with trying to shut things down?

I mean, I have a natural gas-fired plant up in Superior, Wisconsin that is almost done with the process of being able to build now. And it would augment the intermittent sources of power that are being built around the Midwest. The EPA, the Biden EPA, just came in in the last 6 months and said, “You have to go through a more detailed permitting process.”

Delay is death, and so they are really discouraging people from being able to invest in. So, why would they invest when you see that?

Mr. Holloman, would you expound a little bit more? You heard from Representative Stauber about these foreign sources, and how there are going to be foreign countries that are going to benefit from what is supposed to be bought in America. Could you expound on that a little bit more?

Mr. HOLLOMAN. Sure. You know, China took a bet a long time ago, 15 or so years ago, that they don't have a bunch of mines, either. And what they did was they built processing. They built a lot of processing all across the future technological mining industry: copper, cobalt, lithium, nickel. They built the processing there to make the products such as sulfates, or precursor cathode active material, or cathode active material.

And that is now where you have to sell your metal if you are a big producer. There are partners of ours that are big companies—Glencore, for example—that is trying to do the mining correctly, and they don't have options to sell their cobalt, even if they have one of the few mines in the Congo that mines properly, and is watched, and they only use proper Western practices. But they have to send it to China, because China has the only processing. We don't have any processing here.

Mr. TIFFANY. I yield back.

The CHAIRMAN. The gentleman's time has expired. The Chair recognizes the gentleman from Montana, who got a chance to visit in his district last year the only platinum and palladium mine in the United States.

Mr. Rosendale, you recognize for 5 minutes.

Mr. ROSENDALE. Thanks very much, Mr. Chair. As we have spoke, that is not the only place that palladium and platinum is located in the United States, it is just the only place that it is permitted. That is part of the problem that we are running into.

Mr. Somers, a moment ago you referenced the national monuments, and the amount of land that has been pulled out of potential production and productivity because they have been designated as national monuments. My question is, that these extremely large tracts that had been pulled out, it is causing a lot of problem to have access to the valuable resources that are located beneath them.

In your opinion, what do you feel was the original intent? Because that is what we rely upon here, the original intent of the size and the purpose of the designation of a national monument was.

And do you think that a clarification of the language would be very beneficial?

Mr. SOMERS. Absolutely. The Antiquities Act, I think, has been abused in recent decades to lock up mineral resources and for other purposes for which it wasn't intended.

If you look at one of the original national monuments, which is the Natural Bridges National Monument in Utah, in southern Utah, that has some of the most beautiful natural bridges that you will find anywhere in the world. That was a monument that was designated by Teddy Roosevelt, and it is 7,000 acres. The Bears Ears Monument that we have been fighting over for the last 10 or 20 years was originally 1.3 million acres.

So, you are locking up a lot of land. And some of that land absolutely should be protected, but a lot of it is not necessary to have that level of protection on. The Grand Staircase-Escalante National Monument is a 1.9 million-acre national monument, one of the largest that we have, and that locked up a large amount of our coal reserves in the state. Some of the best coal that you will find anywhere was locked up because of that national monument.

So, I think that we need to get back to the original intent, which is to find those landscapes and those cultural resources that need legitimate protection, and protect those with a national monument or whatever other designation is appropriate.

But also part of that is that, when you have those national monument designations, there are not resources that come with that. So, there is not an appropriation from Congress that says, "We are going to give you the resources that you need to appropriately manage this land," and so you will have 1.3 million acres of land that is designated, and you have a couple of BLM law enforcement that are supposed to patrol that whole area. And in some cases, we are finding actually more degradation to the cultural resources than we have before.

Mr. ROSENDALE. Sure. And again, do you feel that we could have some clarification to the Antiquities Act to try to straighten some of that out?

Mr. SOMERS. Absolutely.

Mr. ROSENDALE. I would love to hear some recommendations from you on some of that language that we could try to incorporate.

Mr. Holloman, we appreciate you coming here before this Committee to shed some light on just how difficult the development of critical and strategic minerals are in the United States.

Despite us being one of the leading consumers and developers of electrification, you highlight just how reliant we are on our foreign adversaries for these technologies, specifically mentioning that 90 percent of the world's cobalt, nickel, and rare earth minerals are being processed in China, a country that we are constantly in competition with, as clearly evidenced by the spy balloon which traveled over our country, specifically Montana, looking at our ICBMs and an Air Force base all of last week.

Your company, U.S. Strategic Metals, is an example of how feasible this can be if only the Federal Government would let us. You had one line of your testimony that I think has rung very, very clear to a lot of people sitting in this room today: "The best time to act was yesterday. The second best time to act is today." I seek to act today to defend ourselves against foreign reliance on these minerals.

And my question for you is what, in your opinion, are some of the specific actions that Congress can put into motion to allow for these domestic capabilities to develop, and how can we prevent the Administration from continuing to block mineral development in the United States?

Mr. HOLLOMAN. It is a great question. Thank you, Congressman.

I think the important thing is to be involved in this domestic content negotiation that is going on with the IRA. It has been passed. It is about to go into action. And we need to make sure that the content of the batteries for electrification are made in America or free trade agreement countries. This is going to be a big ask, and we are going to have to get our GMs, our Fords, our Teslas involved in this. And I think that the Congress can do a lot in making sure that that happens.

There is another thing we have to do, is debunk everywhere you see it the narrative which is coming out that it is too late. I just read an article where they have people on the Hill saying Chinese presence in the electric vehicle market is already nearly ubiquitous; corporate partnerships between Chinese and foreign automakers, including those in the United States, is standard, and that reaching America's climate goals without Chinese technology would be exceedingly difficult. We must stamp out this narrative.

We can handle it here in America. We cannot yield to this position that we have to use Chinese technology. It just happened in Virginia. You had CATL, a great Chinese company, but coming in they wanted to build battery manufacturing with Ford in Virginia using Chinese technology, and they wouldn't show us the technology. We can't have that.

We can do all of this stuff ourselves. We just need your help.

Mr. ROSENDALE. Thank you, Mr. Holloman.

Mr. Chair, I would yield back. Thank you.

Mr. TIFFANY [presiding]. Yes, thank you very much. I would like to recognize Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

I would have sat there and let you preach on all day.

[Laughter.]

Mr. COLLINS. I want to start out—I just want to echo the reflection comment that Mr. Curtis made earlier. As I have been sitting here, I have been reflecting, as well. And I campaigned on reeling in China and moving away from a dependency on China. But, as Mr. Rosendale stated also, China is not our friend. That is evident by the balloon that they sent over us last week just to surveil us.

And I really believe that the American people now have begun to wake up to China, if nothing else, then about a year and a half ago, when they saw their Christmas goods sitting off the coast of California that we couldn't get.

So, Mr. Adams, I appreciate—I knew you had an opinion, and you commented on China as well as Mr. Somers.

I have heard you comment on it, too, but I wanted to ask a question of Mr. Holloman.

Because in your testimony you discussed that we have seen China emerge as the unquestioned leader in the minerals market. What factors caused the United States to fall behind during the same period that China became dominant?

Mr. HOLLOMAN. Thank you, Congressman. We did not have a strategic will. Our country was always getting things for the cheapest, and the quickest, and just in time. China started thinking about this many, many years ago.

I was in Africa in the early 2000s, going around to different countries, business meetings and government tenders. And the Chinese were always there. They were out tendering for African mining concessions. They were in Latin America getting mining concessions. They were in Indonesia getting mining concessions. China incorporated the will of a country to go out and secure the future of raw materials. We were absent.

America, just to be blunt is we were very lazy, and that is something that has to change. And I think the only way it changes is when we realize that we cannot control our own destiny.

Mr. COLLINS. Well, having said that, what do you see as, I don't know, the national security implications of the United States lagging behind China like that?

Mr. HOLLOMAN. For the military, I don't know what our DOD stockpile for nickel, cobalt, copper, and lithium is, but I know it is needed in all of our high-tech equipment, our airplanes. Jet engines need alloys from cobalt and nickel. We don't have any of it. We import 100 percent of these metals. Our vulnerability is complete. We are completely vulnerable because of the lack of a stockpile and the lack of an ability to produce it here and mine it here.

And oh, by the way, we have cobalt here. We have nickel here. In Idaho, in Missouri, where we are, we have copper. We are also making lithium from recycling. So, we can do it all here, and we can also import other metals and process it here. A company like Glencore is ready to sell to an American processing company if we create the processing.

I always say, why don't we export batteries? Why don't we export pCAM and sulfate? We can do it, but there are no options for the world's miners, and we are not mining ourselves enough.

Mr. COLLINS. Amen. Good job. Thank you.

Mr. HOLLOMAN. Thank you.

Mr. COLLINS. I think this is probably a pretty good softball, though. What can we do to close that gap?

Mr. HOLLOMAN. Help American companies mine, and help them process. And there is a bipartisan kind of feeling around this because, whereas climate change is the fear on one side, China and national security is the fear on the other side.

Let's talk across the aisle, if we can, because I think there are people in the Administration that want to help. That is really my recommendation to the House Committees. And let's make sure we have this law, this IRA law, which says "domestic content." It has to mean domestic content. No loopholes, no big companies coming in and allowing additional metal from foreign entities of concern. It is written in the law that you cannot use metal from foreign entities of concern. We have to stick to that.

Mr. COLLINS. All right, thank you.

Mr. Somers, real quick, copper, gold, and silver are among many mineral commodities not listed as critical by the Department of the Interior. How important is it to increase production of these minerals, in addition to resources like the lithium, gallium, and cobalt?

Mr. SOMERS. It is critically important. I mean, if you look at the mineral demand, a lot of those are for minerals that aren't on that critical minerals list, especially copper.

We have one of the largest copper mines in the world in Utah. And without increasing copper production substantially, we are not going to meet any of these energy transition goals, or to be able to supply the copper we need for economic development, generally.

Mr. COLLINS. Thank you.

Sorry about that. I yield back, Mr. Chairman.

Mr. TIFFANY. It is no problem, a great discussion going on here.

Next we would like to turn to Representative LaMalfa.

You have 5 minutes, sir.

Mr. LAMALFA. Thank you, Mr. Chairman. I appreciate it.

Mr. Adams, I wanted just to get a little background—sorry, I missed a portion of the hearing here—of your company and its ownership. Is it primarily owned by the Navajo Nation?

Mr. ADAMS. Yes, Congressman, we are wholly owned by the Navajo Nation.

Mr. LAMALFA. OK. And of the Four Corners Power Plant, as well?

Mr. ADAMS. That is correct.

Mr. LAMALFA. It has had some hard times in recent years. What is its current status on operation? Like, what percentage of its—how are you able to run the plant and such?

Mr. ADAMS. So, Four Corners Power Plant is doing very well. A lot of that power is being bought from states west of it that apparently don't burn coal. It—

Mr. LAMALFA. Any of it sold into California, do you think?

Mr. ADAMS. Absolutely.

Mr. LAMALFA. Oh, is California buying that?

Mr. ADAMS. We own a percentage of the Four Corners Power Plant, APS is still the controller of that.

The San Juan plant just closed, unfortunately. And we were with some other groups that were very involved in doing a carbon capture project, but PNM, from pressures from certain groups, stripped that plant as quickly as possible so it couldn't be converted to a carbon capture.

Mr. LAMALFA. Oh, is that underway?

Mr. ADAMS. Yes, that has already taken place.

Mr. LAMALFA. Wow, OK. What was the source of the coal?

Mr. ADAMS. The source of the coal from that was the San Juan mine.

Mr. LAMALFA. Where was that at, again?

Mr. ADAMS. It is just off the Nation in New Mexico, just outside of Farmington, New Mexico.

Mr. LAMALFA. OK, thank you. Tell me about the technology in order to operate the plant there. What technology, as far as the cleanliness and such, was most recently in place?

Mr. ADAMS. Sure, absolutely. As I laid out earlier, there has been \$126 billion invested by coal companies and utilities into power plants.

If you haven't been to a coal plant, if you haven't been to a coal-generating electrical plant, you should make that happen. I think everyone would be very surprised at what they saw, from a cleanliness perspective, from an environmental perspective, how the process works. I think that that is a very, very important field trip that we would love to work with our partners in West Virginia, just from a proximity perspective, to make that happen for this Committee to understand that process, to understand everything that is taking place, from an emissions perspective, in the coal plants.

As Asia has continued to build out coal plants, they are using the newest, latest technologies.

Mr. LAMALFA. Let's talk about the output of the effluent, the smoke, whatever, between, let's say, a plant made 1940 and the one today. How much cleaner are we talking about with the particulate, with the gases, et cetera?

Mr. ADAMS. I don't have those exact numbers, I can get those to you. But it is—

Mr. LAMALFA. Well, just spitball it a bit.

Mr. ADAMS. I mean, what we are doing now isn't even comparable from a—I mean, we are five iterations of technology past where we were.

When people look at pictures of a smokestack at a coal plant, and they are like, "Look at that, look at the smoke, look at"—that is steam.

Mr. LAMALFA. I know. They play that a lot.

Mr. ADAMS. Absolutely.

Mr. LAMALFA. A lot of steam coming out of things that are—

Mr. ADAMS. It gets played all the time. But the emissions are—I would live on the east side of a coal plant dealing with the wind blowing that over my house all day, every day.

Mr. LAMALFA. All right, thank you.

Mr. Somers, following up on previous conversation, and I have heard a lot in the conversation here about how important it is we have a domestic supply, that we have ceded so much to China, and China has moved in on other countries, and basically has the market cornered on so many critical minerals and rare earths, et cetera. What is our potential in this country if we had environmental laws that were more realistic about what we need to do at the same time as we are trying to mandate everything to be electrified?

Mr. SOMERS. Well, as I mentioned in my testimony, for those 51 commodities that we are more than 50 percent reliant, Utah alone has production or historical production of 20 of those. On the original 2018 critical minerals list, we host 28 of those 35 critical minerals.

So, again, just in one state we have the ability to really lessen our dependence on foreign imports. And if you expand that to other mining states, to Arizona, to New Mexico, even California, there is a lot of opportunity to end that reliance.

But, again, you have to have the incentive for investment, and you have to have rational environmental laws so that that capital will come here.

Mr. LAMALFA. Now, what does the footprint look like, usually, for a typical mine?

I know we have made massive national monuments and set-asides, hundreds of thousands, even a million acres. What is the footprint of a mine over its, say, 50-year life? How many acres does it need to do the job?

Mr. SOMERS. It depends, to be honest, because, I mean, our big copper mine in the state, Rio Tinto Kennecott, is a massive mine. And part of that is because the concentrations of copper and gold and silver palladium that you get from that mine is very small.

Mr. LAMALFA. Yes, that is a good place.

Mr. SOMERS. But we also have the only working beryllium mine in the United States, which provides about 70 percent of our beryllium. You can't have an F-35, you can't have an F-22 without beryllium. That is a fairly small operation.

Mr. LAMALFA. How many acres is that beryllium mine, do you think?

Mr. SOMERS. I don't know, exactly.

Mr. LAMALFA. Just guess the square miles. What do you think?

Mr. SOMERS. I would say it is under 1,000 acres, the whole operation.

Mr. LAMALFA. OK.

Mr. SOMERS. So, a fairly compact mine, because the concentrations of beryllium are very—

Mr. LAMALFA. And how about the copper mine? How big is the copper mine, do you think, and the footprint?

Mr. SOMERS. I mean, it takes a whole mountain range, frankly.

Mr. LAMALFA. How much scar do you see? How much disturbed area would you see?

Mr. SOMERS. It is very visible, very visible. But the parts that are actively mined are visible. The parts that have been reclaimed, you wouldn't even know that they have ever been mined in. And that is, I think, a difference between what we do in the United

States versus what happens in some of these foreign countries, where the environmental degradation is substantial.

Mr. LAMALFA. Absolutely.

I appreciate your indulgence, Mr. Chairman. I yield back.

The CHAIRMAN [presiding]. The gentleman's time has expired. Does the gentlewoman from Puerto Rico wish to be recognized?

Mrs. GONZÁLEZ-COLÓN. Thank you, Mr. Chairman.

The CHAIRMAN. You are recognized for 5 minutes.

Mrs. GONZÁLEZ-COLÓN. Thank you. And thank you, the witnesses, for coming here.

Mr. Somers, in your written testimony you describe the U.S. mine permitting system as duplicative, inefficient, and unpredictable. You also explain that the average Federal mining permitting process can take between 7 and 10 years.

My question will be, can you discuss how these delays put the United States at a competitive disadvantage and contributes to our dependence on foreign adversaries like Communist China and Russia for hardrock minerals?

Mr. SOMERS. Absolutely. Thank you for the question. And, again, that 7- to 10-year time frame is an average time frame. There are projects that have been discussed here that are far beyond that. Congressman Stauber talked about one in his district that is 20-plus years at this point.

So, I think that when you are talking about putting us at a disadvantage, if you can go to a country that essentially has no environmental protections, then if you are willing to operate there, you can get a mine permitted, basically, by writing a check.

If you want to stay with a country that has similar environmental protections—again, like Canada, Australia, some European countries—and you can get a mine through permitting in 2 or 3 years, if you are looking to get that return on your investment—which, in most cases, for a large mine is going to be hundreds of millions or billions of dollars of capital invested—and you want to get to that return when you actually start making money, if the difference is between 2 or 3 years and 7 to 10 to 20 years, that obviously puts us at a disadvantage.

In some cases, our resources are so good that companies are willing to take those risks and sort of take their chances with those permitting timelines. But it definitely puts us at a disadvantage and, again, degrades our ability to provide for our own mineral resources.

Mrs. GONZÁLEZ-COLÓN. I am extremely concerned about the China control of the global mineral supply chain. For instance, according to a 2022 Brookings report that nation is refining 68 percent of nickel globally, 40 percent of copper, 59 percent of lithium, and 73 percent of cobalt.

And according to our own U.S. Geological Survey, 2022 Mineral Commodities Summaries Report, China has been the leading supplier for 16 critical minerals, as well as 25 other minerals our nation depends on.

So, my question will be, what specific policies or actions will you recommend this Congress to pursue to end this dependence?

Mr. SOMERS. You bring up a critical point, which is, part of it is the extraction side, but part of it is also the processing side. So,

even for well-developed commodities like copper, we only have two copper smelters left in the entire United States. There is one in Salt Lake City, there is one in Arizona, two for the entire United States. And, again, this is a mineral that we use in all kinds of products. We don't have the processing, smelting, refining capabilities for a lot of these critical minerals, as you described. And I think that that has to be part of these discussions across the board.

And for processing facilities, in some cases you run into the same permitting hurdles that you do with an extractive operation because you are still dealing with air quality permits, or water quality permits, and other things that have to go through a Federal permitting process that, as we have discussed, can be very antiquated, that is very unorganized, and doesn't have the kind of timelines and certainty that you need to make these substantial investments.

Again, a copper smelter, a cobalt refining operation, these are going to be hundreds of millions of dollars that you are going to invest in these facilities. So, I think you have to have more rational permitting.

And then, again, if there are opportunities to incentivize investment in these type of operations, that is something that the United States could do to make sure that we are not digging up rare earth minerals, for example, in California, and then we are shipping them off to China to be processed. We are not relying on China for cobalt or nickel, or whatever the case is.

Again, there are very few of these things that we can—on the uranium side, we are talking about building new small modular nuclear reactors in this country, which was a great thing to pursue. But in most cases you have to rely on HALEU uranium that is coming from Russia, because we don't have those enrichment facilities anymore in the United States.

Mrs. GONZÁLEZ-COLÓN. Thank you.

I yield back.

The CHAIRMAN. The gentlelady yields back. I now recognize myself for questions. And I again want to thank this excellent panel of witnesses for your testimony today, and for your answers to the Committee's questions.

And as I have listened in, and I think about the situation that we are in, there are several words that come to mind: challenges, opportunities. I see blessings and curses and responsibilities, all of that rolled into one. And I wanted to break that down a little bit and look at the challenges that we face.

We could have a hearing like this on every mineral and element that is mined in our country, and every one that we depend on. But let's use copper. Let's just look at copper, which is so critical to electrification. And this statistic came out, and it is almost hard to fathom, but the World Bank says that, by 2045, we have to mine more copper than we have mined in the past 5,000 years to meet global demands. So, think about that. The next 20, 25 years we need to mine more copper than mankind has mined in the history of the world to meet the projections. That is a massive challenge.

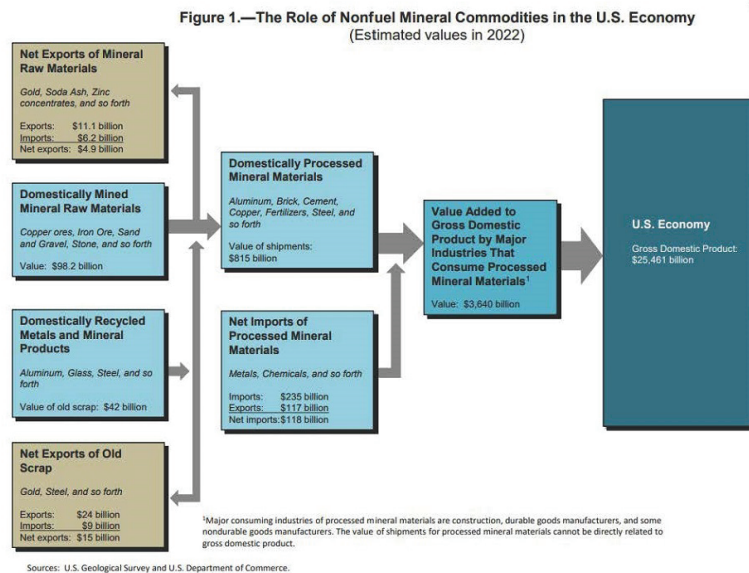
Mr. Somers, you talked about two copper smelters in the United States. China has 50 of them.

The Chinese Communist Party isn't quick to share data with us on their economy, but we can get data on the U.S. economy. And we know from testimony here, just from other hearings we have had, that America is blessed with abundant natural resources, a lot of stuff that we can mine.

I have done a lot of work, and staff has done work with USGS. And I actually have a report here that I am going to submit to the record. It is the 2023 USGS Mineral Commodity Summary, Figure 1.

[The information follows:]

United States Geologic Survey's Figure 1 from their 2023 assessment.



The CHAIRMAN. And my question to staff was, how big is the mining industry in the United States? What does it look like?

And we all hear about value-added processes. Well, if we look at what we dig up and what we recycle here, some of that gets exported, some of it gets used. But what we keep here from mining and recycling, it is a net of about \$120 billion, the value of those raw materials. So, you take those, and you get processed minerals out of it.

Now, that value-added process, from \$120 billion, when it goes through smelting and the next stage, the value of that comes up to \$923 billion. So, you get almost eight times the value from what you mine and recycle as to what you have processed.

But the real number, and the mind-boggling one, is what happens after you get that processed mineral and you start manufacturing things out of it. Now, maybe we have painted the picture that mining is not strong in the United States, and that further

processing is not strong. But still, that \$923 billion of processed minerals—and part of that is our minerals that we import—adds \$3.3 or \$3.6 trillion to the U.S. GDP.

Now, again, we could break this down, and we are trying to get the numbers on everything that is mined and processed in the United States. But just think back to copper, that has such a huge demand on it. We have two smelters. China, we know, has at least 50. How much of our GDP are we exporting when we buy those manufactured goods from China that we could be producing right here at home?

So, that is a huge opportunity. I don't think we really stop and recognize the economic opportunity that we have here in the United States.

So, we have looked at challenges, opportunities, the blessings we have. There are curses associated with mining. And we know that there are some terrible human rights violations around the world.

[Slides.]

The CHAIRMAN. These are pictures from the so-called Democratic Republic of Congo, child slave labor, forced labor, digging the stuff out of mines to go to Chinese refineries to make stuff to ship here to the United States and around the world.

Now, we have cobalt, we have nickel, we have a lot of these deposits here in the United States. And with the insatiable appetite for more minerals, the mining is going to happen somewhere. Regardless of who owns these companies, this will not happen in the United States of America. Under no ownership will American citizens allow this kind of human rights abuses in the United States. So, do we want to stand by and watch this continue to happen in other parts of the world because we have a not-in-my-backyard policy here in the United States?

These are the things I think we have to come to grips with: How do we responsibly use the resources that we have here? How do we meet these massive demands? And how do we do it with the most environmentally sound practices, without human rights violations? Actually, we would be increasing the benefits to humanity by not only providing these materials, but providing phenomenal-paying jobs, by growing our own economy, and that value-added process, it could be a huge boom for the United States.

But that gets to our responsibility, the responsibility as members of this Committee, as Members of Congress, as to how we are going to move forward. And it should be bipartisan. If it is regulatory issues that are the problem, we should fix the regulatory issues. If it is oversight, we should have the oversight, and use the power of the purse of Congress to make sure that these things aren't happening around the world, that we are creating good jobs in America, and that we are growing our economy, and we are pushing back against these supply chains that, in this area of energy, it is coming from China. There are other countries, as well, but the part that we should really be focusing on is doing away with China supplying these goods.

So, the question to the panel is, where should our focus be?

We brought you in as experts to coach the Committee, and we are getting ready to develop legislation. What should we put in that legislation to accomplish these goals?

We will start down on the end.

Mr. HOLLOMAN. Thank you. Thank you, Congressman. I think you have to start by agreeing to agree, because both sides should agree on this. We can't export our pain while we buy an iPhone, but we are against a cobalt mine in America. That is just exporting the pain to the Democratic Republic of Congo.

We need to stop companies that do these practices from being able to sell their metals into America, and we need to streamline these laws, right? We need to streamline the laws that you are already looking at, NEPA and everything else, so that we can do it responsibly and well, and do it together.

And I have to say, not only is that happening, but think of carbon footprint. I mean, the right side is not really well represented, but this group is very worried about carbon footprint. That cobalt goes twice around the world to end up in your iPhone battery or your Tesla battery, twice around the world, 50,000 miles. That is the average lithium ion battery metal travel. If we were doing it in America, you could have 2,000 miles as the carbon footprint.

So, there are great arguments on both sides of this. We need to do it together. I would start with streamlining technology, raising awareness, and not accepting metal from these types of places.

The CHAIRMAN. Mr. Franklin?

Mr. FRANKLIN. Thank you for the opportunity to answer that question.

Just start with tribes, end with tribes. That is kind of a way we like to reference when there are regulatory actions that are taking place that impact us.

So, in other words, meaningful consultation up front, talking to tribes, avoiding these mistakes that are made, the one that just happened with Reno-Sparks Indian Colony at Thacker Pass. Meaningful consultation that takes into account strategies that we can implement to avoid sacred sites, avoid cultural resource areas, and avoid poisoning the waters that are going into tribal faucets.

I think that, if we can put that into legislation, and strengthen the existing ones, and find places where it is not at, that we can adequately mine, and not on the backs of Indian tribes, but, like my brother here, with Indian tribes. And that is what I would ask you to consider as you move forward.

The CHAIRMAN. Thank you.

Mr. Adams?

Mr. ADAMS. I agree with Chairman Franklin. We need to make sure that eco-colonization isn't taking place on our tribes, where this year, the Navajo, we are drilling at Chaco Canyon. The tribe represented and did the analysis and said we need to be at 5 miles from Chaco Canyon. And the Federal Government came in and said, "No, 10 works." That is the other side. I mean, eco-colonization has to stop.

To answer your question on the smelters and what we need to change, if we are going to go from two smelters to more, if we are going to continue to participate and keep up with world growth, we need energy. If we don't have enough electricity sitting on our grid, it doesn't matter how many smelters we have.

We have an issue where we need to focus on baseload power. Coal is not the issue. Emissions are the issue. President Biden said last night that we are a resilient country that has always moved forward. We are innovative. Then let's find the answers. Let's invest in the science. Let's find the answers that are going to drop the emissions to a level where we want them to be, but continue to use coal at a base level 20 to 25 percent.

No one is arguing saying coal should be 80 percent. We are saying we need to stay at a baseload level to keep incubators running in hospitals, and keeping people warm and cold when they need to be, and to keep industry running. As we come into an EV economy where we need more power, this is the wrong time to be getting rid of coal. We need that baseload.

No coal company in the world is going to come and say, "Hey, there are these other great green solutions that solve the problem, and we are going to argue against that," but that is not our reality. We need 50 years for the technology to be there. Rely on cheap, reliable coal to get us there.

The CHAIRMAN. And before we go to Mr. Somers, I want to address that for just a moment.

I am the optimistic engineer. I have always said we shouldn't demonize the fuel source, we should work to achieve the objectives we want to achieve with the fuel. I have had numerous groups come to me in the past few months, telling me about new carbon sequestering technology, where you strip the carbon off, or somehow you take the carbon and you put it in a slurry, you inject the slurry into a deep well, and it turns back into rock.

You could potentially have carbon-free energy from burning coal or burning natural gas if this technology is developed. So, I think we have to continually push the envelope. That is what is going to change energy development around the world, is when American ingenuity comes up with the most reliable, most affordable, and the cleanest, by whatever definition of clean you want to use that other countries will adopt.

Mr. ADAMS. I completely agree. And we believe in the innovation of the American people. We are not quitting on them. We are not going to say, no, we can't do it, and just get rid of whatever it may be. We don't understand why we are doing it with coal.

The CHAIRMAN. Mr. Somers?

Mr. SOMERS. Thank you, Mr. Chair. I want to second what you said about American ingenuity, and especially in investing in new technologies. And I think that the Federal Government has a very useful role to play, because the Federal Government has the resources to take those R&D risks and the commercialization risks that are very difficult to be borne by private industry in many cases.

So, I think that ensuring that our Federal agencies and their Federal programs that have adequate resources to invest in those kind of new technologies so that we can take advantage of American ingenuity and keep our energy economy going the way that we need to.

But also, on the processing side, there are new processing technologies where you can go into waste streams, where you can go into a tailings pond, and pull out minerals that would be lost

otherwise, and would have to be developed elsewhere, and inject those into the value stream, as well.

Just to give one example, our copper mine that I have talked about just recently they opened up a tellurium circuit. Tellurium is a mineral that is used specifically in PV cells and solar panels, and most of that was coming from China, again. But there was a U.S. company that decided that they wanted to source this mineral from the United States.

They went to Rio Tinto Kennecott and said, "Can you pull this out of your waste stream? We will pay for it, we will pay the extra money that it is going to cost, so we don't have to buy it from China." It is pulled out of that waste stream, it is sent to Canada to be processed, and then it comes back here, and it is put into solar cells. And, frankly, those cells are more expensive than what you get from China.

So, if there are going to be incentives for solar production, then make sure that those incentives are directed at North American or U.S. product streams, as opposed to, again, being able to be pulled out of other countries.

And I think too, just in general, especially for these minerals that we need, the critical minerals, the minerals that we need for national defense systems, the Federal Government has to insist on domestic sourcing for those.

Again, I mentioned you can't have an F-35 without beryllium. Part of the reason that we have beryllium is because the Federal Government decades ago decided that they wanted to invest in developing our beryllium resources here in the United States, and now we are the major producer of beryllium. Eight percent of the market is controlled by the United States. And that is because the Federal Government decided that they needed to make sure that beryllium that was needed especially for airframes in this country was coming from the United States, that we controlled that supply.

And we need to do that for all kinds of different minerals so that, again, we don't have a national defense system that relies upon one of our adversaries to give us that mineral in some cases that you have never heard of, but that you have to have for an alloy and process, that you have to have for magnesium, that you need for defending against an airframe against missile attacks.

I mean, those are all things that, again, most people don't think about. But our folks at DOD and other places within the Federal Government think about that. But in many cases, they can't go outside of the country to acquire those minerals, and that is just incredibly counterproductive.

The CHAIRMAN. Yes, thank you, Mr. Somers.

Thank you again to all the witnesses. I could stay here probably all afternoon, but Mr. Grijalva is growing impatient with me over here, and we want to keep as much collegiality as we can on the Committee.

So, again, thank you to the witnesses, thank you to the Members.

And the members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to those in writing.

I also have a few things to submit to the record: a letter from the National Mining Association.

Without objection, so ordered.

[The information follows:]

**Statement for the Record
National Mining Association**

America’s mining industry supplies the essential materials necessary for nearly every sector of our economy—from technology and healthcare to energy, transportation, infrastructure and national security. The NMA is the only national trade organization that serves as the voice of the U.S. mining industry and the hundreds of thousands of American workers it employs before Congress, the federal agencies, the judiciary and the media, advocating for public policies that will help America fully and responsibly utilize its vast natural resources. We work to ensure America has secure and reliable supply chains, abundant and affordable energy, and the American-sourced materials necessary for U.S. manufacturing, national security and economic security, all delivered under world-leading environmental, safety and labor standards. The NMA has a membership of more than 275 companies and organizations involved in every aspect of mining, from producers and equipment manufacturers to service providers. Thank you for the opportunity to offer testimony on behalf of the mineral and hardrock mining companies in the NMA.

Ever-increasing Demand for Minerals

There is widespread recognition that we are entering the most mineral and metal intensive era in human history.¹ Consequently, the right policies to secure new domestic mineral production and our supply chains are more important than ever.

The international competition for minerals will be fierce. The European Union (EU) recently unveiled its “REPowerEU Plan,” scale-up and speed up renewable energy in the next decade.² Late last year, the United Kingdom (UK) released its “Resilience for the future: The UK’s critical minerals strategy.”³ In December, Canada released its “Canadian Critical Minerals Strategy,” a generational “plan to position Canada as the global supplier of choice for critical minerals and the clean technologies they enable.”⁴ Of course, China, with its much longer planning horizon, moved earlier and more quickly to address the risks to its mineral supply chains. In 1999, the Chinese government announced its aggressive “go global” campaign to secure raw materials. The policy, which was fully implemented around 2002–2003, articulated three main objectives: (1) to support national exports and expand into international markets; (2) to push domestic firms to internationalize their activities as a means of acquiring advanced technologies; and (3) to invest in the acquisition of strategic resources.⁵

Many public analyses evaluate the demand for minerals for new technologies and especially energy generation. Last year the International Energy Agency (IEA) issued a cautionary report about risks related to the mineral supply chains required for energy generation transitions.⁶ IEA estimates and others show that demand for some minerals could grow by more than 40 times by 2040. According to IEA:

- Lithium demand is anticipated to grow by more than 40 times by 2040, followed by graphite, cobalt and nickel at around 20–25 times;

¹ Google results for the term “critical minerals” return nearly 24,000 responses (7,000 news specific) for the last month alone.

² Communication from the Commission to the European Parliament, The European Council, The Council, The European Economic and Social Committee and the Committee of the Regions: REPowerEU Plan, (SWD(2022) 230 final), May 18, 2022. https://eur-lex.europa.eu/resource.html?uri=cellar:fc930f14-d7ae-11ec-a95f-01aa75ed71a1.0001.02/DOC_1&format=PDF.

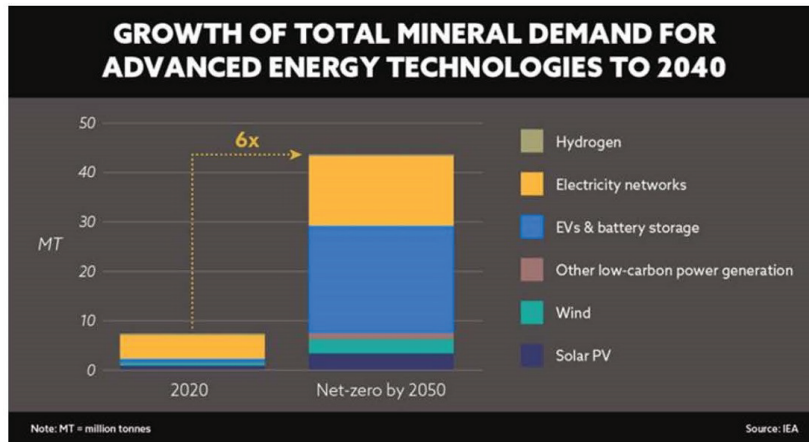
³ Department for Business, Energy and Industrial Strategy, “Resilience for the future: The UK’s critical minerals strategy,” 22 July 2022. <https://www.gov.uk/government/publications/uk-critical-mineral-strategy/resilience-for-the-future-the-uks-critical-minerals-strategy>

⁴ Natural Resources Canada News Release, “Countries Commit to the Sustainable Development and Sourcing of Critical Minerals,” Dec. 12, 2022. <https://www.canada.ca/en/natural-resources-canada/news/2022/12/countries-commit-to-the-sustainable-development-and-sourcing-of-critical-minerals.html>

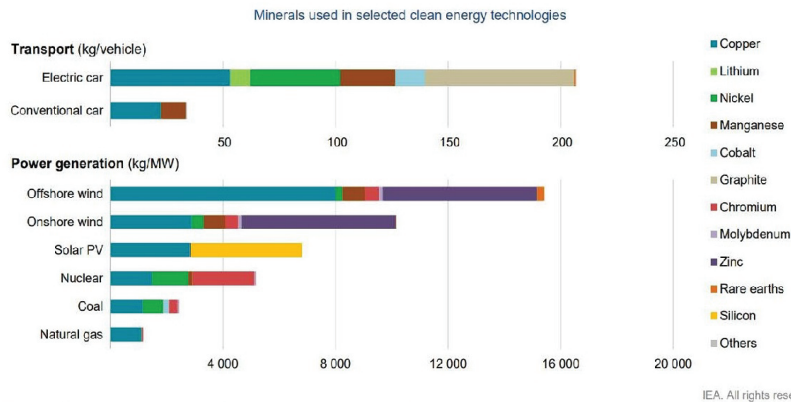
⁵ CRS, “China’s Mineral Industry and U.S. Access to Strategic and Critical Minerals: Issues for Congress,” R43864, March 20, 2015, p. 2. <https://crsreports.congress.gov/product/pdf/R/R43864/6>

⁶ International Energy Agency, “The Role of Critical World Energy Outlook Special Report Minerals in Clean Energy Transitions,” May 2021.

- Copper demand for grid infrastructure and electrification more than doubles by 2040;
- Demand for cobalt is expected to be anywhere from 6 to 30 times higher than today's levels; and
- Rare earth elements may see three to seven times higher demand in 2040 than today.⁷



The rapid deployment of clean energy technologies as part of energy transitions implies a significant increase in demand for minerals



Notes: kg = kilogramme; MW = megawatt. Steel and aluminum not included. See Chapter 1 and Annex for details on the assumptions and methodologies.

⁷Id at pp. 8–10

Other major reports echo the findings of the IEA. Wood Mackenzie, the World Bank,⁸ the Wilson Center⁹ and others outline staggering demand increases that are likely to outpace the available minerals supply.

According to Wood Mackenzie:

- Demand for copper and aluminum is anticipated to increase by a third by 2040.
- Nickel demand grows by two-thirds and cobalt and lithium by 200 percent and 600 percent, respectively.¹⁰

Matching the speed and scale of this rising demand requires a permitting regime that enables the mining sector to respond to market signals. Current U.S. permitting timelines do not.

As the IEA recently concluded in a July 2022 battery supply chain report:

Electrifying road transport requires a wide range of raw materials. While all stages of the supply chain must scale up, extraction and processing are particularly critical due to long lead times. Governments must leverage private investment in sustainable mining and ensure clear and rapid permitting procedures to avoid potential supply bottlenecks.¹¹

Impacts Down the Supply Chain

End users of minerals have awoken to the challenge of securing mineral supply chains, a development perhaps most pronounced by the automotive sector as it advertises a transition to electric vehicles (EVs). Over the last few years, many of the major U.S. car makers have made ambitious announcements about their EV plans. As examples, General Motors has announced it will invest \$35 billion in electric and autonomous vehicle product development until 2025 and that it will phase out petrol and diesel cars by 2035; Volkswagen wants half of its vehicle sales to be electric by 2030 and nearly 100 percent electric sales by 2040; and Audi will launch fully electric models only from 2026 and aims for all car sales to be electric by 2030.¹²

At the same time, automakers are warning with ever greater frequency that the coming battery material shortfall could stop the EV revolution in its tracks. As recently noted by RJ Scaringe, CEO of EV start-up Rivian, the auto industry's current semiconductor problems "are a small appetizer to what we are about to feel on battery cells over the next two decades."¹³ No wonder, as the battery supply chain is already facing the pinch of rising material prices as the gap between demand and supply widens. Battery pack costs—which had been on a long downward trend—are now rising. Metals accounted for 40 percent of battery costs in 2015. Today, they account for 80 percent. Where the price of these metals goes, so does the cost of batteries and EVs. According to EV automaker Stellantis CEO Carlos Tavares, there will be a shortage of EV batteries by 2024–2025, followed by a lack of raw materials for the vehicles that will slow availability and adoption of EVs by 2027–2028 as the global automotive industry pivots to EVs to meet an expected increase in consumer demand and government regulations. He recently cautioned that the "speed at which we are trying to move all together for the right

⁸ World Bank Group, "Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition," 2020. <https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf>

⁹ D. Wood, A. Helfgott, M. D'Amico, and E. Romanin, Woodrow Wilson International Center for Scholars, "The Mosaic Approach: a Multidimensional Strategy for Strengthening America's Critical Minerals Supply Chain," Oct. 12, 2021, https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/critical_minerals_supply_report.pdf.

¹⁰ Gavin Montgomery, Wood Mackenzie, "COP26: Why battery raw materials are a highly-charged topic—Aggressive EV uptake is needed to meet a 2° C target, but metals supply will struggle to meet demand," 13 October 2021, <https://www.woodmac.com/news/opinion/cop26-why-battery-raw-materials-are-a-highly-charged-topic/>

¹¹ IEA, "Global Supply Chains of EV Batteries," July 2022. <https://www.iea.org/reports/global-supply-chains-of-ev-batteries>.

¹² van Halm, I. and Mullan, C., Feb. 14, 2022, "Booming EV sales challenge critical mineral supply chains," *Energy Monitor* <https://www.energymonitor.ai/sectors/transport/booming-ev-sales-challenge-mineral-supply-chains>

¹³ Wall Street Journal, "Rivian CEO Warns of Looming Electric-Vehicle Battery Shortage," April 2022. <https://www.wsj.com/articles/rivian-ceo-warns-of-looming-electric-vehicle-battery-shortage-11650276000>

reason, which is fixing the global warming issue, is so high that the supply chain and the production capacities have no time to adjust.”¹⁴

Automakers have been seeking solutions, including inking deals directly with mining companies. For example, last year Tesla addressed its concern about obtaining the nickel for its EVs by entering into an agreement with BHP to obtain nickel from Australia and more recently with Talon Metals to buy quantities of nickel directly from a mine the company is building in Minnesota. Ioneer has signed a binding offtake agreement with the Ford Motor Company to supply lithium from its Rhyolite Ridge lithium-boron project in Nevada.¹⁵ Only last week, General Motors announced it was investing \$650 million in Lithium Americas to secure access to production from its Nevada operations, which General Motors estimates will contribute to one million EVs annually.¹⁶ For this deal, General Motors was one of more than 50 automakers and companies seeking a secure supply of minerals from Lithium Americas.¹⁷

At the same time, automakers are urging the ramp up of domestic mining. Last year, the Alliance for Automotive Innovation wrote President Biden expressing concerns that “neither the current trajectory of consumer adoption of EVs, nor existing levels of federal support for supply- and demand-side policies, is sufficient to meet our goal of a net-zero carbon transportation future.”¹⁸ One of the specific policy recommendations offered by the Alliance is to promote national security and economic security enhancements through the development of U.S.-based supplies of critical minerals (extraction, processing and recycling), battery and fuel cell manufacturing, and other critical components, including semiconductors.¹⁹ And as succinctly stated recently by Jim Farley, President and CEO of Ford Motor Co.:

We have to bring battery production here, but the supply chain has to go all the way to the mines . . . So are we going to import lithium and pull cobalt from nation-states that have child labor and all sorts of corruption or all we going to get serious about mining?” . . . We have to solve these things and we don’t have much time.”²⁰

We have our work cut out for us to build our domestic mineral supply chains quickly. As recently reported by *The New York Times*, how automakers will obtain enough materials for an all-electric lineup remains unclear. Last last month, Farley told analysts that only 50 percent of the raw materials needed to meet the auto industry’s announced EV targets were actually available.²¹

Demand Cannot Be Met Without New Mining

The automakers are just one stakeholder group that acknowledges the role of domestic mining in securing our supply chains. Certainly, the federal government has repeatedly noted that boosting sustainable domestic mining must be part of the solution. For example, in May 2021, the White House rebutted reporting from *Reuters* claiming that President Biden will primarily rely on ally countries to supply the bulk of the metals needed to build EVs. In its clarification, the White House noted that the reporting incorrectly characterizes the Biden-Harris administration’s approach:

President Biden is focused on seizing the electric vehicle (EV) market, sourcing and manufacturing the supply chain here in America, and creating good-paying, union jobs. Building American-made EVs and shipping them around the world

¹⁴Media interview, May 24, 2022, <https://www.cnbc.com/2022/05/24/stellantis-ceo-warns-of-ev-battery-shortage-lack-of-raw-materials.html>

¹⁵PR Newswire, “Ioneer Signs Binding Lithium Offtake Agreement with Ford,” July 21, 2022

¹⁶Lithium Americas General Motors Transaction Announcement, January 31, 2023, <https://www.lithiumamericas.com/news/lithium-americas-provides-general-motors-transaction-details-and-update-on-construction-plan-for-thacker-pass>. Cecilia Jamasmie, January 31, 2023, “GM invests \$650m in Lithium Americas to develop Thacker Pass mine” www.mining.com, <https://www.mining.com/gm-lithium-americas-to-jointly-develop-thacker-pass-mine-in-nevada/>

¹⁷The Electric, “The New ‘Elephants’—GM Grabs the Biggest Lithium Deposit in the U.S.,” Feb. 2, 2023. <https://subscriptions.theinformation.com/newsletters/the-electric/archive/the-electric-the-new-elephants-gm-grabs-the-biggest-lithium-deposit-in-the-u-s>

¹⁸Alliance for Automotive Innovation letter to President Biden, March 29, 2021. <https://www.autosinnovate.org/posts/communications/Auto%20Industry%20EV%20Policy%20Letter%20to%20President%20Biden%20March%202021.pdf>

¹⁹Id. at 4.

²⁰Jim Farley remarks, Detroit Homecoming VIII, Live-streamed interview with Mary Kramer (director of the annual event). Sept. 25, 2021. <https://detroithomecoming.com/livestream-events/>

²¹Boudette, Neal E. 2022. “California E.V. Mandate Finds a Receptive Auto Industry.” *The New York Times*, August 25, 2022, sec. Business. <https://www.nytimes.com/2022/08/25/business/energy-environment/electric-vehicles-automakers.html>.

will include leveraging American-made parts and resources. This includes responsibly pursuing, developing, and mining critical minerals and materials used for EV batteries. As we strengthen our supply chains, we will pursue strong environmental standards and broad, rigorous consultations with local and indigenous communities to support a responsible, fair, and sustainable EV industry.²²

Working with our allies, like Canada, to build these supply chains is smart. But that must complement the essential work of standing up production and these supply chains at home. It cannot come in place of it.

Recent withdrawal decisions this month locking up more than 225,000 acres in federal Forest Service lands from mining for two decades after also withdrawing federal leases nearly sixty years old from projects in the same areas known for some of the nation's largest reserves of nickel, cobalt, copper, platinum, and palladium could only be described at best as short sighted and at worst self-sabotage.²³

Current Permitting Process Discourages Investment in U.S. Mining

With over \$6 trillion worth of mineral resources here in the United States, a highly trained and highly compensated workforce, and world-class environmental and safety standards, the U.S. mining industry is essential to helping the nation meet ever-increasing demand for minerals for electrification, infrastructure and manufacturing needs.

However, there is real room for improvement. To improve supply chain security, we must also have a robust domestic mineral supply chain. That includes more smelting, processing and refining capabilities in the U.S. necessary to claw back these essential processes from geopolitical adversaries like China, which controls more than 80 percent of global rare earth element production, nearly 90 percent of global mineral processing capabilities as well as the market prices for rare earth elements at each step of the process.

Permitting delays have been, and continue to be, one of the most significant risks to meeting domestic mineral production goals. As the permitting process for important projects across the U.S. drags on, geopolitical rivals are taking advantage of our bureaucratic inertia. Opening or expanding a mine in the U.S. typically involves multiple agencies and the navigation of tens or even hundreds of permitting processes at the local, state and federal levels, with little transparency into status, delays arising from duplication among federal and state agencies, an absence of firm timelines for completing environmental assessments, and failures in coordination of responsibilities between various agencies. Necessary government authorizations now take an average of seven to 10 years to secure—one of the longest permitting processes in the world for mining projects—a time period that is completely out of step with the dramatic increases in minerals production that will be needed in the coming decades to keep up new technologies, infrastructure, manufacturing and even with the administration's goals.

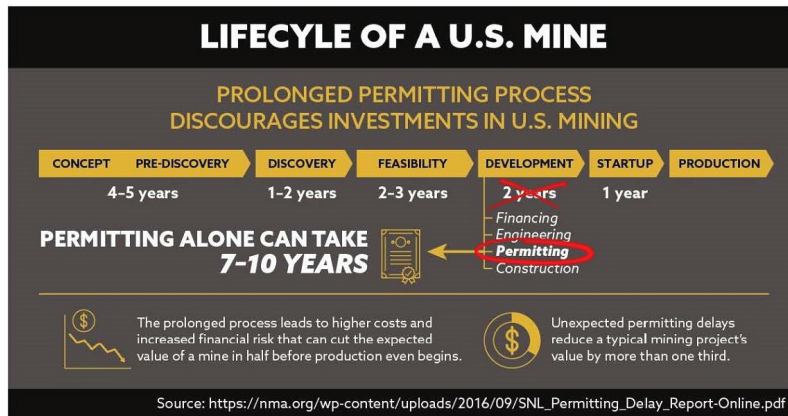
In the U.S., necessary government authorizations place the U.S. at a competitive disadvantage in attracting investment for mineral development. By comparison, permitting in Australia and Canada, which have similar environmental standards and practices as the U.S., take between two and three years. The NMA believes that valid concerns about environmental protection should be fully considered and addressed but permitting processes should not serve as an excuse to trap mining projects in a limbo of duplicative, unpredictable, endless and costly review without a decision point. Moreover, there is little evidence that such delays yield commensurate environmental benefits. The length of the permit process should not be confused with the rigor of review. Ironically, it takes about two years to build a new battery gigafactory, but it takes at least eight years (sometimes more than 10 years) to build a new lithium mine.²⁴

²² Statement from Ali Zaidi, Deputy National Climate Advisor, Reuters, Epoch Times etc.: https://www.theepochtimes.com/white-house-denies-report-that-biden-looks-overseas-for-electric-vehicle-metals_3832373.html?welcomeuser=1

²³ Wall Street Journal, "Biden's Green-Energy Mineral Lockup. The feds block mining that is essential for making EV batteries" January 29, 2023, <https://www.wsj.com/articles/biden-administration-mining-duluth-complex-minnesota-superior-national-forest-deb-haaland-electric-vehicles-11674860178>.

²⁴ Comments of Dr. Qichao Hu, founder and CEO of Massachusetts-based battery maker SES, in an interview with Charged.

Nearly two decades ago, the U.S. attracted almost 20 percent of the world's total mining investment. Unfortunately, in the time since, there has been a sharp decline in U.S. exploration investment. This is not due to lack of resources, but rather a lack of confidence in the U.S. as a viable mining jurisdiction in which to invest hundreds of millions of dollars in upfront costs due to duplicative, inefficient and costly permitting timeframes, making the U.S. more dependent on other countries for metals.



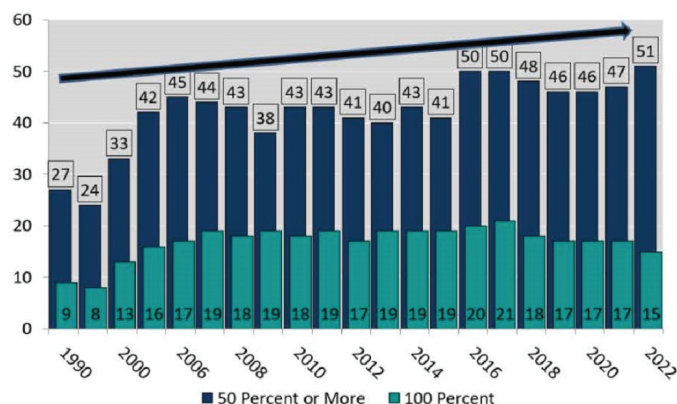
Current Permitting Process Encourages Foreign Dependence

The U.S. is increasingly vulnerable to supply chain disruptions and retaliation from geopolitical adversaries due to our ever-increasing reliance on imports for these essential resources. Less than half of the mineral needs of U.S. manufacturing are met by domestically produced minerals, which leaves our economy and national security at a strategic disadvantage. The U.S. Geological Survey's annual commodity summary released only last week makes some key findings:

- Last year, imports made up more than one-half of the U.S. apparent consumption for 51 nonfuel mineral commodities, and the United States was 100 percent net import reliant for 15 of those.
- Of the 50 mineral commodities identified in the “2022 Final List of Critical Minerals,” the United States was 100 percent net import reliant for 12, and an additional 31 critical mineral commodities (including 14 lanthanides, which are listed under rare earths) had a net import reliance greater than 50 percent of apparent consumption.
- Underscoring the vulnerability of U.S. mineral supply chains, China was the leading source of mineral commodities with a greater than 50 percent import reliance providing 26, with significant imports of other essential commodities also coming from Russia.
- The estimated value of U.S. metal mine production in 2022 was \$34.7 billion, six percent lower than the revised value in 2021. In 2022, the capacity utilization for the metals mining industry was 61 percent, less than the 63 percent capacity utilization in 2021.²⁵

²⁵ U.S. Geological Survey, 2023 Commodity Summary, <https://pubs.er.usgs.gov/publication/mcs2023>

U.S. Mineral Import Reliance



Source: USGS Mineral Commodity Summaries 1900–2023 editions.

While alarming, these findings are the latest in a 20-year trend of net imports that cost our country roughly \$90 billion last year alone. Though the warning signs about our import reliance have been highlighted by a few key legislators for years, overall political concern about minerals supply chains has waxed and waned—with periods of frenzy following unexpected shortages, especially for military applications such as China’s exercise of its dominance over the rare earths’ minerals supply chain—followed by periods of complacency.²⁶

Before the more recent exposure of supply chain vulnerabilities from the pandemic and geopolitical developments of the last few years, the most recent panic occurred in 2010, when China threatened global rare earth supplies. As the Congressional Research Service (CRS) explained:

Chinese export quotas on a type of critical minerals referred to as rare earth elements (REEs) and China’s curtailment of rare earth shipments to Japan over a maritime dispute in 2010 *represented a wakeup call* for the United States on China’s near-monopoly control over global REE supply. The actions of the Chinese led to record high prices for REEs and, as a result, *began to shine a light on the potential supply risks and supply chain vulnerability for rare earths and other raw materials and metals needed for national defense, energy technologies, and the electronics industry*, among other end uses. U.S. legislators have introduced and deliberated on bills that would address the potential supply risk and vulnerability with respect to rare earth supply and bills that would promote domestic rare earth mine development.²⁷ (Emphasis added.)

Unfortunately, none of these past efforts or policies have reversed the U.S. overreliance on foreign sources of minerals despite widespread acknowledgement that this overreliance weakens our economy and endangers our national security. China’s mineral dominance remains a major threat. Currently, China is the leading producer and/or supplier of 66 percent of mineral commodities listed as essential to U.S. economic and national security including lithium, rare earths and other battery metals.²⁸ According to USGS, production concentration has increased markedly over

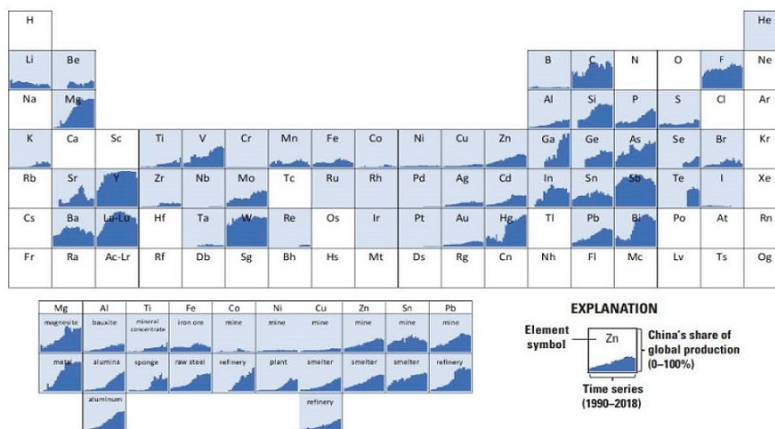
²⁶ See e.g., The Domestic Minerals Program Extension Act of 1953; the Mining and Mineral Policy of 1970; the Federal Land Policy and Management Act; the National Materials and Minerals Policy, Research and Development Act of 1980; and the 1984 National Critical Materials Act.

²⁷ Humphries, Marc. Congressional Research Service, “Critical Minerals and U.S. Public Policy.” R45810, June 28, 2019, p. 5. https://www.everycrsreport.com/files/20190628_R45810_b3112ce909b130b5d525d2265a62ce8236464664.pdf

²⁸ Notably this reliance comes despite existing U.S. resources. In the 2022 Mineral Commodity Summaries, the USGS indicated the U.S. had an estimated 48 million metric tons (mt) of copper that can be mined and processed economically, 69 million mt of cobalt, 340 million mt of nickel and 750 million mt of lithium. Regardless, in 2021, the U.S. imported 48 percent of U.S. consumption of nickel, 76 percent of cobalt, 45 percent of copper, and more than 25 percent of lithium.

the past few decades for many mineral commodities with the most notable global shift being the increasing production of mineral commodities in China.²⁹ As illustrated by the following USGS data, China's share of global mineral production and processing has grown markedly since 1990 for many mineral commodities, including aluminum, bismuth, refined cobalt, gallium, lead, magnesite, magnesium metal, mercury, REEs, silicon, steel (raw), titanium, vanadium and zinc.

China's share of global primary mineral commodity production over time³⁰



China's strong supply chain position stems, in large part, from state investment in processing and manufacturing, rather than an inherent advantage in reserves for most materials. China's "go global" strategy included \$390 billion in outbound direct investments in the mining sector.³¹ For example, as discussed in a recent White House report on supply chains:

- China is the primary global supplier of cobalt for batteries, despite having very limited reserves, through its aggressive investment in processing capacity coupled with foreign direct investment for ores and concentrates.
- China has a dominant position over the Democratic Republic of Congo cobalt reserves, which constitute half of the known global cobalt reserves.
- China has billions invested in nickel projects in Indonesia, home to one-quarter of overall global reserves.
- Mexican-based Sonora clay lithium deposit, operated by China-based Gangfeng Lithium, is currently under development, and would increase total lithium production by roughly half of today's production.³²

²⁹ Nassar, N.T., Alonso, E., and Brainard, J.L., 2020, Investigation of U.S. Foreign Reliance on Critical Minerals—U.S. Geological Survey Technical Input Document in Response to Executive Order No. 13953 Signed September 30, 2020 (Ver. 1.1, December 7, 2020): U.S. Geological Survey Open-File Report 2020—1127, p. 4. <https://pubs.usgs.gov/of/2020/1127/ofr20201127.pdf>

³⁰ For selected elements of the periodic table, the figure displays a time series of China's estimated share of global production for various associated mineral commodities for the years 1990–2018. In the periodic table, production refers to primary production or mine production. In the subfigure below the periodic table, multiple supply chain stages or forms are displayed for each mineral commodity. Elements not assessed are white. For a few mineral commodities (gallium, germanium, indium, selenium, silicon, strontium, and tellurium), data are not available for all years in the time series.

³¹ Humphries, Marc. Congressional Research Service, "China's Mineral Industry and U.S. Access to Strategic and Critical Minerals: Issues for Congress," March 20, 2015. <http://fas.org/sgp/crs/row/R43864.pdf>.

³² White House, "Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-based Growth, 100-Day Reviews under Executive Order 14017," June 2021, p. 94.

- Chinese firms have also made multiple and large investments in mining operations around the world to ensure their supply of critical materials like cobalt, nickel and lithium.³³ Just last month, China based CATL, the world's largest EV battery manufacturer, beat out U.S. and Russian companies to develop the world's largest lithium deposit in Bolivia.³⁴

As a result of these tactics, China controls significant portions of the global mineral supply chain. The IEA reported in May 2021 that China was responsible for 60 percent of global rare earth elements production and nearly 90 percent of global processing for rare earth elements in 2019.³⁵ And this threat is not limited to rare earths. As noted in USGS criticality methodology, “of the 54 mineral commodities evaluated, China was the leading producer of at least one stage of the supply chain for 35 commodities.”³⁶

It did not used to be this way and it does not have to be our future. At every turn, our import dependence is both oversized and unnecessary. As explained in a recent opinion piece published in *The Hill*:

In the 1980s, the U.S. was the mineral capital of the world. Since then, China has developed a juggernaut battery supply chain industry. The industry is centered around chemical processing of battery materials, backed by substantial government funding and coordination. These subsidies led to a wave of outsourcing by American companies across industries from semiconductors to steel. In addition, China has spent the last two decades investing in the mining industry abroad, including major investments and mineral rights in Australia, Africa, Asia and South America. This has led to an overreliance on China—and in turn vulnerable supply chains and a lost economic opportunity at home.³⁷

Our mineral import dependence will be our next Achille's heel. The U.S. must focus on supplying these metals at home as part of the solution “to diversify supply chains away from adversarial nations and sources with unacceptable environmental and labor standards.”³⁸

In order to support new domestic production, a robust domestic supply chain that includes minerals and metals sourced, refined, processed and smelted within our borders, we need to build on the important work done by this committee.

The following data from the mining program at the University of Missouri of Science and Technology is an important snapshot which allows us to better understand the domestic supply chain issues impacting production and refining and processing for simply one widely used metal.

³³ See also, USGS 2020 Investigation of U.S. Foreign Reliance on Critical Minerals (There are instances where the mineral deposit or mining and mineral processing operation of a commodity is partially or completely owned and (or) controlled by foreign companies with strong ties to their governments. For example, Chinese firms have purchased equity stake in lithium deposits and operations in Australia and Chile, niobium operations in Brazil, a rare earth deposit in Greenland, and cobalt operations in the D.R. Congo, Papua New Guinea, and Zambia (S&P Global Market Intelligence, 2020). Investigating China's investment in cobalt assets worldwide, Gulley and others (2019) found that when taking into account Chinese companies' ownership in foreign assets on an equity-share basis, China's share of global cobalt production increases from 2 to 14 percent for cobalt mine materials and from 11 to 33 percent for cobalt intermediate materials (figure 6). Furthermore, if the Chinese companies' equity shares of the production from these assets are assumed to be as secure as its domestic production, then these acquisitions have the effect of reducing China's NIR from 97 percent to an adjusted 68 percent, thereby reducing China's exposure to supply disruptions (Gulley and others, 2019.) p. 8.

³⁴ Reuters, “Bolivia taps Chinese battery giant CATL to help develop lithium riches,” Jan. 20, 2023. <https://www.reuters.com/technology/bolivia-taps-chinese-battery-giant-catl-help-develop-lithium-riches-2023-01-20/>

³⁵ International Energy Agency. “The Role of Critical Minerals in Clean Energy Transitions,” 2021. <https://iea.blob.core.windows.net/assets/24d5dfbb-a77a-4647-abcc-667867207f74/TheRoleofCriticalMineralsinCleanEnergyTransitions.pdf>

³⁶ 2021 Methodology, p. 7.

³⁷ Ellen Hughes-Cromwick, Ph D. 2022. “How the U.S. Can Secure a Resilient Electric Vehicle Battery Supply Chain.” *The Hill*. June 8, 2022. <https://thehill.com/opinion/energy-environment/3516265-how-the-us-can-secure-a-resilient-electric-vehicle-battery-supply-chain/>.

³⁸ “FACT SHEET: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities.” 2021. The White House. June 8, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/>.



United States – Copper Mining, Smelting and Refining

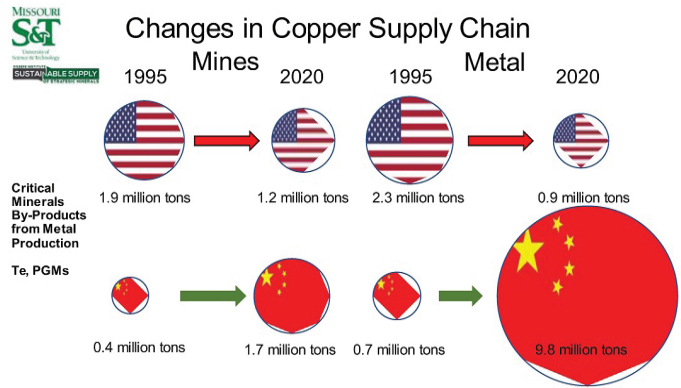
- | | |
|--|--|
| <p>• 1995</p> <ul style="list-style-type: none"> • 40 mines produce copper <ul style="list-style-type: none"> • 1.9 million tons production • 7 primary smelters • 4 secondary smelters • 7 electrolytic refineries • 15 electrowinning facilities <ul style="list-style-type: none"> • 2.3 million tons refined copper | <p>• 2020</p> <ul style="list-style-type: none"> • 25 mines produce copper <ul style="list-style-type: none"> • 1.2 million tons production • 3 primary smelters • 0 secondary smelters • 3 electrolytic refineries • 14 electrowinning facilities <ul style="list-style-type: none"> • 0.9 million tons refined copper |
|--|--|

China – Copper Mining, Smelting and Refining

- | | |
|---|---|
| <p>• 1995</p> <ul style="list-style-type: none"> • 0.4 million tons mine production • 0.7 million tons refined copper | <p>• 2020</p> <ul style="list-style-type: none"> • 1.7 million tons mine production • 9.8 million tons refined copper |
|---|---|

All information from USGS National Minerals Information Center’s Mineral Commodity Summaries or Yearbook
All tons are metric tons

This next graphic further illustrates the enormity of the supply chain issues that the U.S. and our allies continue to face if we do not take the necessary steps to support regulatory policies that encourage private investment rather than attempting to control it.



What are the Solutions?

Chairman Westerman’s and Subcommittee Chairman Stauber’s legislation with Chairwoman Cathy McMorris Rodgers *Securing American Mineral Supply Chains Act* contains key steps to support a robust domestic mineral supply chain that prioritizes responsible resource development through policies that provide certainty to all mining operations and manufacturers; sets lead agencies and improves the timeliness of the permitting process with timelines; maintains access to mineralized federal lands unless specifically withdrawn by Congress and unless the U.S. Geological Survey can assure that a withdrawal does not threaten supply chains; supports research, development and demonstration funding at the USGS and Department of Energy; new workforce development and training opportunities; and unlocks innovation by not supporting prescriptive mineral policies.

These policy recommendations are commonsense changes that would provide regulatory certainty to investors that the U.S. seeks to once again compete on a global scale in the mineral supply chain. Instead of only seeking to secure mineral supplies from foreign sources or exporting domestically extracted materials for further refinement, processing and smelting, these improvements in the permitting process would signal that the U.S. intends to secure the entirety of its supply chain, lessening vulnerabilities from outside sources, including geopolitical impacts.

Conclusion

The U.S. is at a mining crossroads. Mineral demand is soaring, but our policies are lagging. We must encourage more domestic mining and processing to meet future demand and ensure that the materials required for everything from infrastructure to electrification are readily available. The NMA appreciates the prioritization of these issues by the House Natural Resources Committee and is eager to help craft important policy solutions for the future.

The CHAIRMAN. A letter from Representative Amodei.
Without objection, so ordered.
[The information follows:]

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC

February 8, 2023

Hon. Bruce Westerman, Chairman,
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Westerman:

The following information is offered in direct rebuttal to the testimony/written statement from the National Association of Tribal Historic Preservation Officers dated February 7, 2023, under the signature of Reno Franklin, Chairman of the Kashia Band of Pomo Indians.

Page two of Mr. Franklin's written testimony makes reference to alleged facts which are not such according to a U.S. District Court Judge in Nevada, as well as the National Environmental Policy Act (NEPA) process conducted by the local tribal council of the Ft. McDermott tribe.

Finally, Mr. Reno's testimony completely ignores that both a NEPA and Environmental Impact Statement process was conducted in full compliance of all cultural preservation requirements, and Lithium Americas has willingly complied with all regulations related to state and federal law.

I would submit that Mr. Reno's testimony to the Committee concerning the Thacker Pass area is simply false and misleading.

Please make this letter and attached memorandum part of your record for your hearing today.

Sincerely,

MARK E. AMODEI,
Member of Congress

The CHAIRMAN. And under Committee Rule 3, members of the Committee must submit questions to the Committee Clerk by 5 p.m. on Monday, February 13. The hearing record will be held open for 10 business days for those responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 2:36 p.m., the Committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Westerman

Posters shown during the hearing of child slave labor in the Democratic Republic of the Congo



Statement for the Record
Ute Indian Tribe of the Uintah and Ouray Reservation
February 22, 2023

The Ute Indian Tribe of the Uintah and Ouray Reservation appreciates the opportunity to provide this testimony to the House Committee on Natural Resources Subcommittee on Energy and Mineral Resources for its Oversight Hearing entitled the “Unleashing America’s Energy and Mineral Potential” held on February 8, 2023.

The Ute Indian Tribe is a major oil and gas producer and uses revenues from that energy development as the primary source of funding for our Tribal government and to provide vital services to our members. Our Reservation is the second largest reservation in the United States and covers more than 4.5 million acres. The majority of our approximately 3,000 members reside on the Reservation. We lease about 400,000 acres for oil and gas development, and we have about 7,000 wells that produce 45,000 barrels of oil a day. The Tribe takes an active role in the development of its resources as a majority owner of Ute Energy.

Using revenues from energy development, our Tribal government provides services to our members and manages the Reservation through 60 Tribal departments and agencies including land, fish and wildlife management, housing, education, emergency medical services, public safety, and energy and minerals management. The Tribe is also a major employer and engine for economic growth in northeastern Utah generally. Tribal businesses include a supermarket, gas stations, a feedlot, an information technology company, a manufacturing plant, Ute Oil Field Water Services, and Ute Energy.

Our governmental programs and Tribal enterprises employ approximately 450 people, 75% of whom are Tribal members. Each year the Tribe generates tens of millions of dollars in economic activity in northeastern Utah. The Tribe takes an active role in the development of its resources as a majority owner of Ute Energy and owns numerous oil and gas wells on the Reservation. In sum, energy development allows the Tribe to positively impact both the Reservation and greater Utah.

Tribal Energy Development Benefits the Environment and the Economy

The Tribe’s ability to develop energy on its Reservation has the potential to have a positive global impact. Specifically, as many have noted, the current regulatory climate pushes energy and mineral development abroad to countries that do not have the same safety standards as the United States. As a result, increased energy development abroad adversely impacts the environment while detracting from the United States’ economy.

Tribes are in a unique position to both protect the environment and be a leader in domestic energy development. Indeed, Tribes have a special relationship with their land—it is a life giver and sustainer. Given this, Tribes skillfully thread the needle on developing energy while protecting and honoring the land and environment. Indeed, tribal energy development is a sustainable alternative to pushing energy production to companies in countries like China and Venezuela that lack sufficient environmental regulation. Thus, tribal energy development must be supported and afforded every opportunity to reach its full potential.

Hinderances to Tribal Energy Development

Unfortunately, the imposition of bureaucratic red tape on the Tribe’s, and Indian Country’s, energy development severely impacts tribal energy development and disregards tribal sovereignty. The primary example of this hinderance is the National environmental Policy Act (“NEPA”). As it stands, the application of NEPA is causing energy companies to limit their activities on the Reservation hampering the Tribe’s economic development and the economic incentive for producers to operate on the Reservation. As a result, the Tribe is not able to fully develop its resources and revenues available for Tribal operations are limited.

As noted in a 2015 Government Accountability Office (“GAO”) Report, “NEPA compliance reviews significantly increase the cost of conducting operations on Indian lands and, as a result, projects are moved to adjoining state or private lands where NEPA compliance is not required.”¹ For example, the delays and uncertainties experienced by oil and gas operators on our Reservation in obtaining drilling permits and other authorizations jeopardize future development plans. For example,

¹ Gov’t Accountability Office, Indian Energy Development—Poor Management by BIA has Hindered Energy Development on Indian Lands 18 (June 2015) [Hereinafter “GAO Report”].

in 2015, it took an average of 405 days for operators to receive a drilling permit from the Bureau of Land Management (“BLM”) and the Bureau of Indian Affairs (“BIA”) on our lands. In contrast, it takes the State of Utah only 73 days on average to issue drilling permits on private and state-managed lands. Much of this delay is caused by NEPA reviews and federal agencies that lack the staff and resources to conduct these reviews—particularly on Indian lands. Without significant reforms, permitting delays have and will continue to result in lost revenue to the Tribe and jeopardize the economic viability of our projects.

The last Administration took steps to help address NEPA’s negative impacts by finalizing a rule entitled “Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act.” (2020 Final Rule). The 2020 Final Rule was intended to comprehensively update, modernize, and clarify the current regulations to facilitate more efficient, effective, and timely NEPA reviews by federal agencies. The 2020 Final Rule also served to improve interagency coordination in the environmental review process, promote earlier public involvement, increase transparency, and enhance the participation of states, Tribes, and localities, including increased tribal participation in projects with off-reservation impacts. The Tribe generally supported the 2020 Final Rule in its efforts to streamline the review process. However, the current Administration unwound a number of the changes made by the 2020 Final Rule.

This is a cautionary tale that highlights the need for changes beyond the regulatory level. Indeed, NEPA itself must be addressed to ensure lasting changes that foster tribal energy development and that tribal sovereignty is recognized.

NEPA Should Not Apply to Secretarial Approvals on Indian Lands

A threshold issue regarding Indian tribes and NEPA is whether NEPA should apply to Indian lands at all. Although it is well established in caselaw and regulations that NEPA applies to major federal action on Indian lands, typically triggered by approval of leases by the Bureau of Indian Affairs, this was not always the case. In fact, the legislative history of NEPA is silent of any indication of whether Congress considered NEPA’s application to Indian lands or whether the Secretarial approval of Indian leases are major federal action.

Absent any intent to the contrary, it is logical that Congress did not intend to subject the discretionary execution of fiduciary duties imposed on the government by the trust responsibility and various federal statutes to the procedural and bureaucratic stranglehold that NEPA imposes on development. To impose the burden of NEPA on private Indian land places the Indians at an economic and competitive disadvantage when compared to non-Indian competitors not subject to NEPA, and subjects the development of their property and resources to judicial challenge by those with no connection to the land or affected community.

Put another way, subjecting development on Indian lands to NEPA places Indian landowners in a uniquely disadvantageous position, where they not only must secure federal approval for almost any transaction involving the development of their lands, but then they must also wait months, and in some circumstances years, before the federal government administrators comply with NEPA before approval for development can be obtained. This scenario directly undermines the role of the government as trustee, where the government’s duty to approve leases of Indian land if they are in the best interest of the landowners is directly supplanted by the requirement to burden the lease with competitive disadvantages of the administrative costs and delays associated with NEPA.

For example, in 2013, the Commission on Indian Trust Administration and Reform reported that the Department of Interior does not have adequate resources to meet Indian leasing demands for oil and gas development, including the resources to analyze and approve NEPA documents.² Additionally, according to a report from the GAO, stakeholders, including Interior officials, have also highlighted this concern and “further identified inadequate staff resources as a contributing factor in lengthy review times and a hindrance to development of Indian energy resources.”³

In addition to delays caused by the willful understaffing and underfunding of the BIA, the involvement of other federal agencies in the NEPA process also works against Tribe’s in the efforts to develop their land and resources. During the NEPA process a number of other federal agencies may become involved in review of the document, increasing both the number of approvals needed for authorization and overall delay of the project. For operations on the Uintah and Ouray Reservation,

²Report of the Commission on Indian Trust Administration and Reform, Approved December 10, 2013.

³GAO Report, at 24.

the United States Fish and Wildlife Service will consult on the document under Endangered Species Act Section 7 authority and the Environmental Protection Agency will often consult on air and water quality issues. These administrative inefficiencies cost the Tribe time and money related to potential projects. Specifically, as noted in the GAO report, industry stakeholders have:

[H]ighlighted the additional costs required for NEPA compliance and the uncertainty associated with public opposition and comments received during the NEPA process as factors that can cause a developer to avoid Indian energy resources and choose to develop non-Indian resources that do not require federal agency action.”⁴

And, as noted above, NEPA reviews increased costs and result in projects being moved “to adjoining state or private lands where NEPA compliance is not required.”⁵

From this evidence it is clear that the imposition of NEPA on the development of Indian lands has worked to increase the costs and delay of projects on Indian lands, driving developers away from Indian lands to lands that are not similarly burdened with NEPA’s bureaucratic hurdles. As such, the application of NEPA to Indian lands is antithetical to the duty of the United States owed to Indian tribes under the federal trust responsibility. It was on this basis which the United States initially resisted the application of NEPA to Indian lands in *Morton v. Davis*,⁶ and it is on this same basis that the Tribe continues to object to the applicability of NEPA to development on tribal lands. Given this, NEPA should be amended to clarify that Indian lands are not “public lands” subject to NEPA.

Limit NEPA Review for Tribal Actions On-Reservation

NEPA boldly proclaims that “each person has a responsibility to contribute to the preservation and enhancement of the environment.”⁷ In doing so, it expressly contemplates input from the general public to help realize national environmental policies. The public is brought into the NEPA process in many ways. For example, major projects are required to prepare an Environmental Impact Statement which must be published in the Federal Register for public review and notice, and comment procedures are mandated in various circumstances throughout the NEPA process. Moreover, NEPA’s implementing regulations stress public involvement by containing a number of commenting requirements to allow public input in the implementation of NEPA.⁸

These regulations speak broadly about involvement from “the public” and in doing so exceed the statutory requirements of NEPA itself. The regulations provide no limitations on who may comment on a particular project, opening up agencies to dutifully receive comments from individuals and special interest organizations that are often outside of the projects geographically impacted area. This regime does not serve the goals of the NEPA process and actively inhibits agencies by requiring them to review, and in many cases respond, to comments that are generally inapplicable or at the very least not representative of localized concern.

A one-size-fits-all approach to public participation in environmental decision making is not acceptable in the context of Indian lands. A system that was meant to promote inclusiveness and flexibility now runs amok with involvement from disinterested parties who have no real stake in the outcome other than their ability to impute their own values on actions that exclusively implicate local concerns. This broad implementation of public participation as it relates to development in Indian Country has rendered it unwieldy, incoherent, and ad hoc.

Moreover, subjecting Indian energy development to NEPA’s public participation regime by allowing the public to present concerns for consideration before BIA approves leases and permits has had a negative impact on overall development. In the same GAO Report referred to above, it is noted that stakeholders highlighted the “uncertainty associated with public opposition and comments received during the NEPA process as factors that can cause a developer to avoid Indian energy resources and choose to develop non-Indian resources that do not require federal agency action.”⁹

To illustrate the problems associated with NEPA’s current public participation regime, one needs only to look at the example provided by past attempts to close

⁴ *Id.*

⁵ *Id.* at 26.

⁶ 469 F.2d 593 (10th Cir. 1972).

⁷ 42 U.S.C. § 4331(c).

⁸ See 40 C.F.R. §§ 1503.1, 1506.6; 43 C.F.R. §§ 46.235, 46.305.

⁹ GAO Report, at 26.

the Bonanza Power Plant located within the exterior boundaries of the Tribe's Uintah and Ouray Reservation. The Plant is a five hundred (500) megawatt power plant that burns approximately two million tons of coal annually, contributing untold amounts of air pollution on the Reservation and destroying local flora and fauna within a vast swath of land surrounding the Plant. Because of these environmental consequences and the plant's location on the Reservation, the Tribe was steadfast in support of the Plant's closure when both the lease supporting the Plant and the Plant's operating permit were up for review. However, during meetings and hearing on the renewal of the Plant's coal lease and operating permit, the focus and attention was diverted from the inhabitants of the land who live with the consequences of the Plant on a daily basis, and was instead placed on the coal mining company and various national public interest groups. In doing so, industry and public interest groups successfully hijacked the NEPA public participation process to realign the discussion to address their concerns and impose their individual ethics on decisions exclusively impacting tribal lands.

In sum, the reality is that certain individuals or organizations participate in NEPA's public participation regime regardless of their proximity to a project or its impacts. In these cases, agencies can expend untold federal resources considering and responding to comments that only detract from the views that matter most, those of local concern.

As such, with respect to NEPA's application to Indian lands, public participation should be limited to tribal members and residents of immediately surrounding communities. This will greatly reduce the time and resources agencies expend and prevent outside influences from muddying and complicating the issues and injecting controversy where none exists. Moreover, this will further the government's trust obligations to tribes by eliminating the uncertainty developer's face associated with public opposition and comments received during the NEPA process. This policy makes sense from a tribal sovereignty perspective, as members of the public who are not tribal members should not have any say over tribal development projects. Instead, tribal voices should have primacy in any discussion regarding the use and development of tribal lands and resources.

Streamlining Indian Energy Development

Beyond NEPA, there are several other areas that must be addressed to fully unleash tribal energy development. For example, the energy permitting process on Indian lands needs to be made more efficient, including Applications for Permits to Drill. Moreover, deference should be given to tribal authority on hydraulic fracturing and should recognize individual tribal experiences and practices with hydraulic fracturing. Beyond this, applicable permitting decisions should give deference to tribal decision-making on how to best assess and mitigate for climate change on individual tribal lands. In short, tribes must be allowed to fully utilize their knowledge in developing energy within their lands. As longtime stewards of our lands, we are in the best position to develop our energy resources and contribute to the economy while protecting the environment.

Conclusion

Thank you for the opportunity to provide the testimony of the Ute Indian Tribe of the Uintah and Ouray Reservation on unleashing the Tribe's energy potential. As we have outlined, the Tribe's potential to fully utilize its energy resources and be a leader in the industry is often hampered by overburdensome regulation. As a primary example, the inherent problems caused by NEPA's application to development on Indian lands and the barriers it places on development of our lands and resources works to stifle the Tribe's energy potential. It is our hope that these comments are fully considered by the Committee and that positive changes can be made to minimize the unnecessary constraints placed on tribal energy development.

Submission for the Record by Rep. Grijalva

February 7, 2023

Hon. Bruce Westerman, Chairman
 Hon. Raúl Grijalva, Ranking Member
 House Natural Resources Committee
 1324 Longworth House Office Building
 Washington, DC 20515

Re: Full House Natural Resources Committee Hearing Titled “Unleashing America’s Energy and Mineral Potential”

Dear Chairman Westerman, Ranking Member Grijalva, and Members of the Natural Resources Committee:

As your committee considers changes to the energy and mine permitting processes, on behalf of the undersigned, we write to ask you to prioritize efforts that would balance public health, community input, and the protection of watersheds, wildlife habitat and cultural and historic resources on America’s public lands and wildlife. Similarly, we respectfully urge your committee to strongly oppose efforts that would exacerbate deficiencies in the existing mining law and result in an unnecessary increase in mining on federal public lands and puts at risk irreplaceable protected lands, special places, endangered and sensitive wildlife, tribal sacred sites, and culturally significant sites in the guise of a clean energy transition.

Improvements to the Mine Permitting Process

We acknowledge that growing demand for certain materials may require new hardrock mines, including some on federal public lands. However, there are better ways to source minerals than allowing entities to stake claims prior to the discovery of a mineral deposit or imposing arbitrary environmental review timelines. Necessary changes include those considered last Congress in the Clean Energy Minerals Reform Act of 2022. Converting to a leasing system for hardrock minerals—just like the one that oil and gas companies use today—would help provide certainty to the permitting process and result in more timely and socially acceptable decisions.

Congress has already invested significant time and resources into permitting reform for mining. The Inflation Reduction Act (IRA) included \$1 billion to support timely and effective environmental reviews across federal agencies, which should lead to better, more equitable outcomes, and help avoid litigation. Additionally, the Fiscal 2023 budget will help fund public lands management agencies to perform more thorough mining reviews.

These resources for mine permitting build upon those in the Infrastructure Investment in Jobs Act (IIJA). IIJA made permanent the Fixing America’s Surface Transportation Act Permitting Council (Permitting Council), which, in January 2021, added hardrock mining as a covered sector. In November 2022, the Administration announced the Permitting Council will devote \$5 million in support of more meaningful consultations with federally recognized tribes in hardrock mine permitting.

IIJA also required the Interior Department to identify process improvements to hardrock mine permitting. A coalition of tribes, indigenous-led organizations, and conservation groups have also petitioned Interior for rules that, if finalized, would result in more timely decisions for hardrock mine permits without sacrificing necessary public input. In response to both, the administration convened the mining reform Interagency Working Group which should recommend mining rule improvements, consistent with the petition. These updates would also help lead to a fair hardrock mine permitting process, delivering more certainty to both claimants and impacted communities.

Mine Permitting Must Be Modernized, Centering on Historically Impacted Communities

Current mining law has allowed for the pollution of America’s environment and waterways, placing additional unjust burdens on communities who have already borne the brunt of our nation’s toxic mining legacy. Already, America is littered with hundreds of thousands of abandoned mines that the Environmental Protection Agency (EPA) estimates have polluted 40% of the headwaters of western U.S. watersheds and will cost taxpayers more than \$50 billion to clean up. Under current law, taxpayers are potentially liable for billions more in cleanup costs at currently

operating mines—including treatment of water in perpetuity, risking the health of already threatened Western watersheds—because there is no legal requirement for mining companies to remediate lands and waters.

Historical examples of mining companies being given unfettered access to minerals with little to no environmental safeguards have had severely negative consequences—a prime example is found in Navajo Nation’s experience with uranium mining, milling, and toxic pollution. Navajo Nation is situated directly in America’s uranium mining belt, and in the 1950s and 1960s fervent uranium development left residents with myriad health risks due to radiation exposure through polluted water and land. Today over 500 of these mines remain unremediated across the Navajo Nation, where they continue to impact residents’ health. Navajo Nation residents are 67 times more likely to live without running water than other residents across the country—and many water sources on the Navajo Nation are contaminated as a result of uranium mining and milling operations. In 2016, researchers with Northern Arizona University discovered high levels of uranium contamination in the water supply of Sanders, Arizona, a small town just outside of the Navajo Nation whose residents are mostly Navajo. It was later discovered that the state had known of the contamination since 2003, but regulators failed to notify the residents of Sanders until after NAU researchers presented their results to the community. The Navajo Nation is not alone. Past and ongoing impacts of uranium operations on Native communities are extensive.

Any Changes to Mine Permitting Must Explicitly Include Protections for America’s Special Places

Expanding mineral activities on federal public lands without modernizing our mining laws could threaten some of our nation’s most treasured areas. Previous mine permitting proposals have sought to scale back protections for millions of acres of tribal sacred sites, culturally significant places, and iconic natural places. While mining is not permitted within the boundaries of National Parks, mining activities pollute the air and water that crosses the boundaries of protected lands. Insufficiently regulated mining in the name of clean energy development promotes a false choice by risking key lands that we need to conserve for our own health and wellbeing. We urge the committee to reject any legislation that puts important American lands, waters, and wildlife at risk of pollution and degradation.

Conclusion

We respectfully urge Members of the House Natural Resources Committee to oppose efforts that would exacerbate deficiencies in the existing mining law and result in an unnecessary increase in mining on federal public lands and puts at risk irreplaceable protected lands, special places, tribal sacred sites, wildlife, and culturally significant sites in the guise of a clean energy transition. There are common-sense solutions to improve mine permitting and promote responsible mining that Congress should consider, including the community-consent driven leasing system in the Clean Energy Minerals Reform Act of 2022. Additional resources, updated rules, and thoughtful IJA and IRA implementation will also drive mine permitting efficiency.

Thank you for your consideration.

Sincerely,

The Wilderness Society	Earthworks
Earthjustice	Sierra Club
National Parks Conservation Association	Defenders of Wildlife
Center for Biological Diversity	League of Conservation Voters
Natural Resources Defense Council	Conservation Lands Foundation
Friends of the Earth	Alaska Wilderness League
Grand Canyon Trust	Southern Utah Wilderness Alliance
Oregon Natural Desert Association	Friends of the Sonoran Desert

Northeastern Minnesotans for Wilderness	Arizona Faith Network
New Mexico & El Paso Interfaith Power and Light	Los Padres ForestWatch
Sisters of Mercy of the Americas Justice Team	Northern Alaska Environmental Center
Arizona Trail Association	Conservation Northwest
Wilderness Workshop	Citizens to Protect Smith Valley (NV)
Progressive Leadership Alliance of Nevada	Uranium Watch
Living Rivers	Western Watersheds Project
Save the Scenic Santa Ritas	Hispanic Federation
Idaho Conservation League	Kamloops Moms For Clean Air
Weber Sustainability Consulting	Black Hills Clean Water Alliance
Sheep Mountain Alliance	Wild Arizona
Idaho Rivers United	Brooks Range Council
Multicultural Alliance for a Safe Environment	Okanogan Highlands Alliance
Red Water Pond Road Community Association	MEIC
Arizona Mining Reform Coalition	American Friends Service Committee
Office of Peace, Justice and Integrity of Creation, Sisters of Charity of New York	
RedWaterPond Road Community	Tucson Audubon Society
BlueWater Valley Downstream Alliance	River Alliance of Wisconsin
Friends of the Kalmiopsis	Kalmiopsis Audubon Society
Information Network for Responsible Mining	Cook Inletkeeper
Endangered Species Coalition	Rivers Without Borders
Laguna Acoma Coalition For A Safe Environment	