



**NATIONAL ASSOCIATION  
OF TRIBAL HISTORIC  
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**Testimony of the National Association of Tribal Historic Preservation Officers  
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Tribal Historic Preservation Officer for the Enterprise Rancheria of Maidu Indians  
Unleashing America's Energy and Mineral Potential  
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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.