
ESSENTIAL MINERALS ASSOCIATION

March 9, 2023

The Honorable Representative Bruce Westerman
Chairman
Committee on Natural Resources
US House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Representative Raúl Grijalva
Ranking Member
Committee on Natural Resources
US House of Representatives
1332 Longworth House Office Building
Washington, DC 20515

Dear Chairman Westerman and Ranking Member Grijalva:

On behalf of the members of the Essential Minerals Association (EMA), I write to thank you for your continued leadership on the issue of mineral permitting reform. We appreciate the Natural Resources Committee's consideration of the "Transparency, Accountability, Permitting, and Production of American Resources Act" or "TAPP American Resources Act" as a key first step toward addressing this critical issue.

The EMA represents the interests of more than 80 member companies that mine, process, or support the minerals that are critical to nearly all aspects of everyday life. According to the most recent figures from the United States Geological Survey, the metal/non-metal industry generates approximately \$98 billion in production with an estimated 1.3 million direct and indirect jobs, of which EMA's members are significant contributors. This production contributes significant tax revenues to the nation's local, state, and federal governments.

The minerals produced by EMA's members are vital to the manufacturing processes for many, if not all, of the products we use every day. These minerals are used in agricultural feed, fertilizers, baking products, water purification needs, batteries, protective masks, dialysis machines, semiconductors, solar panels, glass, ceramics, paper, plastics, rubber, detergents, insulation, pharmaceuticals, cosmetics, foundry cores and molds used for metal castings, paints, filtration, metallurgical applications, refractory products, and specialty fillers. These are just a few of the many uses of our members' essential minerals.

We believe that it has become clear to all parties that the federal permitting system is fundamentally flawed. The current process is onerous and duplicative in nature and does not provide definitive timelines for reviews to occur. For instance, it is almost comical, in Australia and Canada where comparable environmental standards are in place, it takes 2-3 years for a permit to be approved and a company to begin production. Even after going through the regulatory process, a company then faces the uncertainties of litigation which creates further delays. If the United States is to establish a more secure domestic supply chain of the minerals that are vital to our manufacturing and agricultural needs, then we must have a much more efficient process in place to provide mining entities with the predictability and clarity they need.

The current permitting process makes it very difficult for a company to justify investing in a new operation in the U.S. instead of another country with a similar mineral deposit. As the Committee knows, in most cases, it costs tens of millions of dollars in an initial investment in a mineral deposit to permit, build out, and

establish a mineral production and processing facility before any mining even occurs. The added risk that accompanies attempting to develop a new minerals site in the U.S. with the seemingly constant threat of litigation, even well after the site goes through the decade plus permitting process, only adds to the costs and uncertainty for companies. Absent reform, it will be almost impossible for the U.S. to produce the growing domestic demand for these essential and vital minerals that our member companies produce. Thankfully, over the last several months, it has been increasingly apparent that a bipartisan agreement on comprehensive minerals permitting reform is possible this Congress if done soon. The growing understanding and appreciation that a vital component that will allow for the U.S. to grow and expand the green and renewable sector to allow for the necessary transition to that as our primary energy source very much relies upon a strong and reliable domestic minerals supply.

Our country's national and economic security depends on strong domestic supply chains for mineral resources. Continuing to rely upon our strategic adversaries for the resources we need is an untenable policy, and streamlining the permitting for domestic mineral operations is a crucial step toward rectifying that dependence. We are currently being held hostage by China, Russia, and others for many of these minerals that we rely on for every aspect of our lives, and global geopolitical conditions globally continue to worsen by the day. China, Belarus, and Russia currently control 60 percent of the global supply of fertilizer, and they also control the supply of dozens of other minerals that are vital for agriculture and manufacturing. We are still seeing the impacts of the supply chain disruption from Covid-19. This is an unacceptable dynamic, but one that can largely be rectified if Congress does the right thing by passing legislation to properly secure our domestic mineral supply chains.

We need to address this issue swiftly, and it must be bipartisan.

All sides need to come to the table and reach a commonsense solution that allows for the rapid, environmentally safe development of the domestic mineral resources. Producing more minerals domestically will allow those minerals to be extracted and processed under the protections of U.S. environmental laws and regulations, as well as those protecting worker health and safety. EMA member companies strive every day to protect vital land, air, water, and cultural resources while conducting operations, in addition to providing exemplary protection for the health and safety of their workers. This is in stark contrast to countries like Russia and China who have abysmal environmental standards and little or no regard for worker health and safety. Developing more domestic mineral production will benefit the environment, the workforce, and the country. If we do not begin addressing the global threats to the environment that exist in those nations, the steps we are taking in the U.S. and in Europe to transition to a greener economy will all be for naught.

EMA believes there are several crucial principles that must comprise the foundation of any final bipartisan permitting reform legislation. First, we strongly support timelines to require federal agencies to complete environmental reviews required under the National Environmental Policy Act (NEPA) in a prompt and predictable manner. The TAPP American Resources Act includes provisions that would require Environmental Assessments be completed within 12 months and Environmental Impact Statements within 24 months. The clarity and predictability these timelines would provide will incentivize U.S. mining entities to invest in domestic operations. Many EMA members have seen permit applications languish for ten years or more with no guarantee of any decision ever being made, which deters development of essential mineral resources.

Second, we believe there must be appropriate parameters regarding litigation against permits after federal

agencies have completed their permitting process and approved a mine plan of operations. Excessive litigation by groups seeking to weaponize the judicial system can cause years or even decades of delays which prevents essential domestic mineral resources from being produced. EMA supports all stakeholders having their voices heard in the permitting process, but once a permit has been granted after all sides have been given opportunities to participate in the notice and comment process, the permitted project should be able to proceed without the threat of frivolous litigation, with very limited exceptions. There are several proposals in the bills contained within the TAPP American Resources Act to address litigation reform, and we encourage both parties to arrive at a mutually agreeable solution to this issue.

Third, a final permitting package should include a provision to prevent a permit granted under one presidential administration from being arbitrarily revoked by a subsequent administration. If the expert staff of the agency in question have granted a permit in accordance with all appropriate laws and regulations, the project should be able to proceed without politically motivated interference. This principle should be constant regardless of the political party that granted the permit or which one comes into power after the permit has been granted. This will enable EMA members and others to make investment decisions based on their permit with the confidence that their permit will endure the peaceful transition of power from one election to the next and encourage the development of essential domestic mineral resources. Any final permitting reform legislation signed into law should include this protection, and we look forward to working with both parties on this point as the legislative process continues.

Finally, EMA members recognize that there is also a desire to enact some changes to the Mining Law of 1872 as part of the permitting reform process. We believe that the system should be fair to both taxpayers and domestic mining entities, allow U.S. mining operations to continue to responsibly operate while remaining competitive in the global market, and solve some of the legacy issues facing many communities where mining has occurred in the past.

As we continue to progress to this bipartisan solution, we would like Congress and all parties involved in these discussions to be sure to understand the fact that many of our member companies are small businesses that produce low profit margin minerals with high processing and operating costs, and are often competing against synthetic, government-sponsored enterprises, such as Russia and China. Any successful and practical reforms to the Mining Law must be structured in a manner that takes this into account.

If Congress determines to broaden the scope to include royalties, we believe that we should include all mineral royalties including those outside of the scope of the Mining Law of 1872. We believe that any reform of these royalties must be implemented on a net income basis rather than gross in order for mineral companies to factor out the extensive processing costs to transform the rocks and dirt extracted into the valuable minerals to the agricultural and manufacturing sectors.

It is also imperative that any royalty rates imposed should also be tiered for different classes of minerals and metals based on processing costs and net profit margins to allow our sector of the industry to remain competitive globally. This would in turn help the general public even more so, as the costs associated with manufacturing the products used in our everyday lives that are so heavily reliant upon those minerals would not see costs exponentially increase if the royalty was based on gross income.

Further, we also believe that the revenue derived from royalties should in part be directed to the remediation for Abandoned Mine Lands (AML) to address legacy issues from mines dating back to the era prior to the enactment of modern U.S. environmental laws. Another portion of the funding from royalties

should be **explicitly** dedicated to funding timely and prompt permitting by federal agencies. So in addition to providing taxpayers a return on the investment of domestic mineral development via royalties and an increase in domestic jobs both at the mineral sites and related manufacturing facilities that would be developed to take advantage of this resource, it will also help keep the cost of agricultural and manufactured goods that we rely upon every day reasonably priced and the supply chains to be far more reliable.

Please be assured, the EMA and our member companies are committed to working with **all sides** to discuss and come to a quick agreement on this issue.

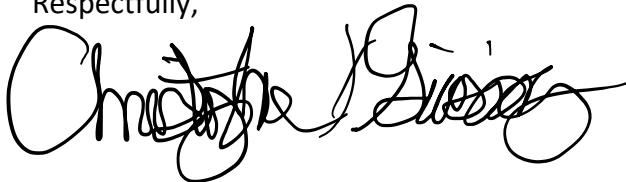
We recognize and support that there must be changes to the TAPP American Resources Act to ensure that all sides' concerns are heard throughout not just the process of finalizing any permitting reform legislation, but in the implementation of that legislation as well. While this bill is one that we would applaud being enacted as-is, we are well aware that there will need to be modifications in order to come to a strong bi-partisan agreement in the coming weeks. EMA strongly encourages all sides to come together and discuss this issue in good faith, so that this bill can be enacted in the coming months.

This issue is vital to securing our supply chains, keeping consumer costs at a reasonable level, and importantly providing new job opportunities both at the mineral sites and the manufacturing jobs that will come with a stronger minerals industry. The appreciation for the need for a stronger domestic minerals industry has never been more apparent. It is vital that we act quickly and enact the reforms that will enable the nation to accomplish that goal.

We stand ready to actively participate throughout this process, and hope all sides will look to EMA and our members as a resource as Congress moves forward and passes reform legislation quickly this year.

Please do not hesitate to reach out if we can be helpful in any way.

Respectfully,

A handwritten signature in black ink, appearing to read "Chris Greissing", with a stylized flourish at the end.

Chris Greissing
President
Essential Minerals Association

CC: Speaker Kevin McCarthy; Majority Leader Steve Scalise; Minority Leader Hakeem Jeffries; House Committee on Natural Resources Members