



## NPCA Position on H.R. 209, the Permitting for Mining Needs Act of 2023, and the TAP American Energy Act of 2023

February 27, 2023

Dear Chairman Stauber, Ranking Member Ocasio-Cortez, and Members of the Energy and Mineral Resources Subcommittee:

Since 1919, the National Parks Conservation Association (NPCA) has been the leading voice of the American people in protecting and enhancing our National Park System. On behalf of our 1.6 million members and supporters nationwide, I write to share our positions on H.R. 209, the Permitting for Mining Needs Act of 2023, and the TAP American Energy Act of 2023

**H.R. 209 – Permitting for Mining Needs Act of 2023:** NPCA **opposes** this legislation which risks key conservation lands that help protect our national parks and the health and wellbeing of our communities. While mining is not permitted within national parks, mining activities pollute the air and water that crosses the boundaries of other nearby protected lands. NPCA does not oppose additional mining for minerals critical to the clean energy transition and 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 by allowing entities to stake claims prior to the discovery of a mineral deposit or imposing arbitrary environmental review timelines. Insufficiently regulated mining in the name of clean energy development promotes a false choice and we must do better.

NPCA has specific concerns with sections 3, 8, and 10 of this bill:

*Section 3* – This section sets arbitrary timelines for key steps in the National Environmental Policy Act (NEPA) process for mine permitting. According to the Government Accountability Office, the two most cited challenges that affected the length of time to review hardrock mine plans were the low quality of information operators provided in their mine plans and the agencies’ limited allocation of resources for their hardrock mining programs.<sup>1</sup> This bill addresses neither of those problems and instead sets a time limit of 12 months for an Environmental Assessment (EA) and 24 months for an Environmental Impact Statement (EIS) without properly funding the agencies tasked with performing these reviews. This will dramatically reduce the quality of these reviews and opens the door to greater threats to water, land, sacred sites, and communities.

*Section 8* – This section would exacerbate the issues with the current claim system by validating mining claims under the Mining Law of 1872 before the claimant has proven a mineral discovery. Currently, mining rights fully vest only after valuable minerals are discovered. Under H.R. 209, a claimant would no longer need to prove they discovered valuable minerals. Instead, any person could “claim” mining rights on unwithdrawn public lands merely by grounding a stake, paying a fee and filing some paperwork. This would effectively lock out most other uses of public lands and establish mining as the highest and best-use of the land.

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<sup>1</sup> <https://www.gao.gov/assets/gao-16-165.pdf>



*Section 10* – This section sets an arbitrary 120-day limit for communities to legally challenge mine projects in court. This 4-month limit severely restricts the ability of communities and Tribes to protect their water, land, air and sacred sites from toxic mining pollution. Restricting the ability of local communities to provide adequate input degrades the public trust in these industries and does little to expedite the permitting process.

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. The Permitting for Mining Needs Act of 2023 would not meaningfully address the underlying issues with mine permitting or supply of clean energy minerals but would exacerbate the conditions for more hardrock mines to pollute the watersheds of our national parks.

**H.R. \_\_\_\_\_ - Transparency and Production of American Energy Act of 2023:** NPCA **opposes** this legislation which would allow unrestrained oil and gas development on federal lands and waters with no consideration for the negative effects it would have on national parks and communities. The bill effectively ends the long-standing policy of “multiple-use” on public lands in favor of fossil fuel extraction over recreation and conservation and would have drastic implications for the president’s ability to protect cultural, natural and sacred spaces . This legislation also makes unnecessary changes to NEPA, our nation’s bedrock environmental protection law, including arbitrarily shortening timelines and limiting the public’s ability to participate in the permitting and siting processes.

While this legislation is problematic by effectively making extraction the dominant use on BLM and USFS lands, NPCA has specific concerns with the following titles:

*Title I* – This title would force the federal government to lease large swaths of public lands and waters for oil and gas development with no regard to the effects on climate or national parks and communities. This ends the decades-long precedent of deferring to the president and secretary of the Interior on determining when and where to hold lease sales. It also requires the federal government to lease more public lands for coal mining while fast tracking the leasing and permitting process at the expense of environmental reviews and community input. We believe the future of energy development must include renewable energy, this title would hamper the federal government’s effort to transition to clean energy including wind and solar.

*Title III* – This title modifies the way a president may withdraw or conserve public lands from fossil fuel and mineral extraction. It also requires the administration to survey for additional mineral and fuel deposits on lands already protected through administrative withdrawal or Antiquities Act designation, allowing for the potential removal of these protections for fossil fuel development and mineral extraction. These changes upend the way public lands are protected and used, undermining our country’s long-standing commitment to conservation and protecting resources for the enjoyment of future generations.

Additionally, this title forces the federal government to prioritize oil and gas development and coal and mineral mining on federal lands over all other uses. This could make lands unusable for conservation and recreation purposes, including hiking, hunting and fishing, and end the long-standing policy of “multiple-use”.

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As this would apply to all Bureau of Land Management and U.S. Forest Service lands that have not already been removed from oil and gas development by administrative withdrawal, lands protected through legislative designations or under the Wilderness Act could lose those protections and become open to drilling and mining.

*Title IV* – This title rescinds the commonsense changes to the oil and gas leasing program that NPCA supported in the Inflation Reduction Act, including updated royalty rates and the end to non-competitive leasing. By lowering royalty rates, this title would take money from conservation funding programs and leave it in the hands oil and gas companies. By reinstating non-competitive leasing, federal land could be given away for oil and gas development for up to half as much as it would sell for at auction.

*Title V* – This title makes drastic changes to the revenue sharing structure from energy production on federal lands and waters and would take funding away from multiple conservation programs, including the National Parks and Public Lands Legacy Restoration Fund created by the Great American Outdoors Act, the Land and Water Conservation Fund, and the Historic Preservation Fund. This title also abolishes administrative fees that help the Department of the Interior facilitate its leasing programs, effectively defunding the department’s ability to manage its leasing program which Titles I and III of this bill seek to grow exponentially.

The TAP American Energy Act of 2023 does not increase America’s energy independence, security or diversification in a meaningful way – which can only be done by increasing the use of renewable energy. It does, however, eviscerate some of our most important and long-standing protections for natural, cultural and sacred spaces.

If you have any questions or need additional information please contact Charlie Olsen ([colsen@npca.org](mailto:colsen@npca.org)) about H.R. 209 or Daniel Hart ([dhart@npca.org](mailto:dhart@npca.org)) about the TAP American Energy Act of 2023.

Thank you for considering our views.

Sincerely,

Christina Hazard  
Legislative Director, Government Affairs  
National Parks Conservation Association