



American Exploration &
Mining Association
EST. 1895

16201 E. Indiana Ave., Suite 32801
Spokane Valley, WA 99216
(509)624-1158 - www.miningamerica.org

January 30, 2024

The Honorable Bruce Westerman
Chairman
House Natural Resources Committee
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Raúl Grijalva
Ranking Member
House Natural Resources Committee
1329 Longworth House Office Building
Washington, D.C. 20515

The Honorable John Pete Stauber
Chairman
House Natural Resources Subcommittee on
Energy and Mineral Resources
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Alexandria Ocasio-Cortez
Ranking Member
House Natural Resources Subcommittee on
Energy and Mineral Resources
1329 Longworth House Office Building
Washington, D.C. 20515

Re: January 31, 2024 Energy and Mineral Resources Subcommittee of the House Natural Resources Committee Legislative Hearing on H.R. 2925 and H.R. 6862

Dear Chairman Westerman, Ranking Member Grijalva, Chairman Stauber and Ranking Member Ocasio-Cortez,

The American Exploration & Mining Association (AEMA) wishes to express our support for H.R. 2925, the bipartisan *Mining Regulatory Clarity Act*, and H.R. 6862, to amend the Fixing America's Surface Transportation Act (FAST-41) to include certain mineral production activities as a covered project. Both pieces of legislation would help secure our mineral supply chains in the United States.

Who We Are and the Importance of the U.S. Minerals Mining Industry

AEMA is a 129-year-old, 1,800-member national trade association representing the mineral development and mining industry, with members residing across 46 states, 7 Canadian provinces or territories and 10 other countries. AEMA is the recognized national representative for the exploration sector, the junior mining sector, as well as mineral developers interested in maintaining access to public lands. Thus, AEMA represents the entire mining life cycle, from exploration to mineral extraction and then to reclamation and closure. More than 80 percent of our members are small businesses or work directly for small businesses.

American miners continue to play an indispensable role in building and defending our Nation. From foundations to roofs, power plants to wind farms, roads and bridges to communication

grids and data storage centers, America's infrastructure begins and ends with minerals and mining.

There is no question that the minerals we produce are indispensable to modern society. They are also essential to fighting climate change, and for zero-emission technologies such as wind turbines, solar panels, storage batteries and EVs. As these technologies are deployed in ever-greater numbers, the demand for minerals is skyrocketing, and our Nation must do more to keep up.

Congress has taken note of this surge in demand, and through the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022, has decided – and we agree – that it is inappropriate, unwise and dangerous to rely on hostile, untrustworthy or unstable countries to supply our country's minerals. Congress has sent a clear message – **Now is the time to get serious about building a reliable mineral supply chain.** AEMA and its members stand ready to help build that supply chain right here in America.

Our members take great pride in producing the metals and other important minerals America needs for national and economic security, as well as the materials people use in their everyday lives. We are proud of our members' contributions across the communities and regions where they operate, many of which are rural areas facing significant economic and social development challenges. Notably, the U.S. mining industry is the safest, most environmentally responsible mining industry in the world. Our members have repeatedly demonstrated that mining and protecting the environment are compatible, as mineral producers make possible the development of society's basic needs and consistently minimize modern society's impacts on the environment.

We Need a Reliable Domestic Mineral Supply Chain

Recent global events have exposed the United States' supply chain vulnerabilities, highlighting the importance of an abundant and affordable supply of domestic minerals for America's future.

The fact is, global mineral demand is skyrocketing. As noted in a report from the International Energy Agency, keeping global temperature rise to below 2 degrees Celsius above preindustrial levels will quadruple the demand by 2040 for the minerals needed to build wind turbines, solar panels, and electric vehicles. A faster energy transition — reaching net zero globally by 2050 as the Biden administration has called for— would require critical mineral inputs to increase sixfold by 2040.

Solar panels require silver, tin, copper, and lead; wind turbines use rare earths, copper, aluminum, and zinc; electric vehicles are built with copper, aluminum, iron, molybdenum; and rechargeable storage batteries use lithium, vanadium, nickel, cobalt, and manganese.

President Biden has promised to convert the entire U.S. government fleet – about 640,000 vehicles by 2030 – to EVs. That plan alone could require a 12-fold increase in U.S. lithium production to manufacture the lithium-ion batteries that power EVs, according to Benchmark Minerals Intelligence, as well as increases in output of domestic copper, nickel, and cobalt - and that's just for the U.S. government vehicle fleet. The magnitude of the minerals needed for a 100 percent EV market is even more staggering, and simply cannot be ignored.

Unfortunately, a lack of access to economically viable mineral deposits and a lengthy, inefficient federal permitting system has resulted in the United States being increasingly dependent on foreign sources of strategic and critical minerals. It's time that we, as a Nation, recognize this vulnerability and the vital importance of minerals to our national security, our economy, and our everyday lives. We have heard a lot over the years about the importance of energy independence, but it is equally as important, if not more so, that we are minerals independent.

Made in America must include "mined in America" and sourcing minerals from U.S. mines that use state-of-the-art environmental protection measures, put a premium on worker health and safety, and have financial assurances that guarantee reclamation when mining is complete.

Recycling will play an important role in meeting increasing metal demand, but it will not be enough. The IEA's report estimates that by 2040, recycling metals from spent batteries could only supply about ten percent of the minerals that will be needed.

The United States and our economy simply need more mines. According to the USGS' Mineral Commodity Summaries 2023, our country's import dependence for key mineral commodities has doubled over the past two decades, with the United States now 100 percent import-reliant for 15 of its key minerals and more than 50 percent import-reliant for an additional 36 key mineral commodities. This foreign reliance continues despite the existence of significant mineral deposits of many of these commodities within our borders. Moreover, U.S. mineral import reliance continues to increase as mineral demand from essential industries, such as energy and transportation, soars. Notably, the World Bank sees mineral demand for advanced energy technologies jumping by nearly 500 percent by the year 2050.¹ Copper demand alone may rise as much as 350 percent by 2050, according to one estimate.²

Support for H.R. 2925, the *Mining Regulatory Clarity Act*

A major threat to the future of mining on U.S. public lands is the U.S. District Court's July 2019 decision in litigation challenging the Forest Service's approval of the Rosemont Mine, Rosemont Copper Company's proposed Arizona copper mine. The court's decision incorrectly restricts the rights to use public lands for mineral purposes to claims that contain a discovery of a valuable mineral deposit and interprets the Mining Law in a manner that interferes with claim owners' Mining Law rights to use public lands to explore for and develop minerals.

The Rosemont ruling incorrectly limited the jurisdiction of the Forest Service's surface management regulations to claims with a discovery of a valuable mineral deposit. The Bureau of Land Management's (BLM) and the Forest Service's regulations govern all aspects of locatable mineral activities to ensure all mineral activities comply with environmental protection mandates and to confirm that all mining facilities are reasonably incident to the mining project. Claim status is irrelevant in determining the applicability of these regulations.

¹ <https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf>

² (<https://www.sciencedirect.com/science/article/abs/pii/S0959378016300802>)

It has always been Congress' intent that the law must support and encourage mining on public lands. Although Congress has amended the Mining Law and developed other laws pertaining to public lands management since 1872, the purpose of the Mining Law has not changed. Congress has repeatedly preserved the foundational rights under Section 22 of the Mining Law that authorize citizens to enter, use, and occupy public lands to explore for minerals and to develop mines.

We therefore strongly support the bipartisan *Mining Regulatory Clarity Act* (H.R. 2925). The legislation is a durable solution that simply codifies the decades-long framework prior to the Rosemont decision. This bill clearly recognizes that maintaining security of land tenure is essential for mining to occur on public lands and is especially important in light of the skyrocketing demand for minerals.

Support for H.R. 6862

The Federal Permitting Improvement Steering Council (FPISC) proposed a rule in September 2023 that would amend its regulations to limit the scope of mining projects eligible for coverage under Title 41 of the FAST Act solely to critical minerals mining projects, as defined by section 7002 of the Energy Act of 2020 and listed by the Director of the U.S. Geological Survey (USGS). AEMA's members have extensive first-hand experience with the Federal permitting process, and they are significantly impacted by permitting decisions from an array of Federal agencies. Thus, our members are key stakeholders when it comes to developing a more efficient, timely and effective Federal permitting process as envisioned under FAST-41.

AEMA vigorously opposes limiting eligibility solely to USGS-listed "critical" minerals projects, and in our formal comments we urged the FPISC to withdraw the proposal immediately. AEMA appreciates that the FPISC proposal expands the definition of the sector beyond "the process of extracting ore, minerals, or raw materials from the ground" to include "critical mineral beneficiation, processing, and recycling." This is consistent with the need to actually produce the final product minerals essential to the U.S. economy and recognizes that much of existing mineral processing currently occurs overseas, often in insecure jurisdictions. Given AEMA's support of the provision to expand the definition of the mining sector, we urge Congress to amend H.R. 6862 to include the expanded definition. However, we emphasize that this provision should not be limited to USGS-listed "critical" minerals.

It should not be forgotten that multiple federal agencies maintain their own lists of "critical minerals" or "critical materials," including the departments of Energy and Defense, among others. These lists are compiled for various reasons, not least of which is a mineral's importance to the economy or weapons platforms, thus underscoring its national security implications. FPISC gives no explanation why they selected the USGS list, but in doing so, they have elevated one agency's list in importance above the others.

FAST-41 was enacted to improve the timeliness, predictability, transparency, and accountability of the Federal environmental review and authorization processes for covered infrastructure projects. FAST-41 coverage does not predetermine or affect the outcome of any Federal decision-making process with respect to a covered project, nor modify any required environmental review or public or tribal consultation process.

Beyond mining, current FAST-41 sectors include renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. It is important to remember that mining stands at the front of the supply chain for these and nearly every sector of our economy.

S&P Global published a report titled “Inflation Reduction Act: Impact on North America metals and mineral markets,” which identified protracted permitting as a key factor in the shortage of minerals, stating: “extended and uncertain timelines for permitting in the U.S. and around the world are a major obstacle to bringing new [copper] supply online to narrow that shortfall.” This report cites the complexity of lengthy, multi-agency permitting processes and post-permit litigation risks as the primary reasons that permitting is so difficult and fraught with uncertainties.

While AEMA’s members stand ready to help, the need to address our permitting vulnerabilities is more urgent than ever; now is not the time to narrow mining sector eligibility. FPISC’s 2021 vote to include mining as a covered sector clearly recognized that mining projects almost always involve the complex permitting processes that FAST-41 was designed to facilitate. FAST-41 provides a pathway to reduce permitting inefficiencies while retaining our world-class environmental protections, but it must be available to the entire mineral mining sector.

The surging global demand for minerals means other countries will be competing for the same limited supplies, which will challenge the United States’ ability to obtain minerals from abroad. Although we may need to obtain some minerals from our allies, we must responsibly utilize our own resources whenever possible. Consequently, our objective must be to get more mines permitted in the United States. Unfortunately, the FPISC proposal to restrict FAST-41 eligibility to only “critical” minerals projects will result in fewer mines being permitted in a timely manner, not more.

Conclusion

Congress has consistently and repeatedly recognized that minerals and mining are essential to all facets of our economy, society, and national defense. For example, the Mineral and Mining Policy Act (1970), FLPMA (1976), the National Minerals, Materials Policy Research and Development Act (1980), the Energy Act (2020), the IJA (2021), and most recently the IRA (2022) all direct the Executive Branch agencies to respond to the Nation’s need for domestic minerals.

Unfortunately, these Congressional directives have gone largely unheeded as more lands continue to be withdrawn from mineral entry and permitting timelines, costs, and risks have become intolerable. Our risky reliance on imported minerals is a direct result of five decades of ignoring Congress’ clear directives that minerals should be mined from public lands to help satisfy the Nation’s need for minerals. Despite the urgent need to increase domestic mining and reduce our dependency on foreign minerals, today it often takes 10 years or more to permit a mine.

The findings in the IJA that “critical minerals are fundamental to the economy, competitiveness, and security of the United States” and that “the Federal permitting process has been identified as

an impediment to mineral production and the mineral security of the United States” must result in constructive action to streamline permitting and eliminate permitting impediments.

For the aforementioned reasons, we wholeheartedly support H.R. 2925 and H.R. 6862. We look forward to continuing to work with you to ensure America has a secure and affordable supply of the minerals and metals needed for our modern society.

Sincerely,

A handwritten signature in black ink that reads "Mark D. Compton". The signature is written in a cursive style with a large, stylized initial "M".

Mark Compton
Executive Director