

## WESTERN SHOSHONE DEFENSE PROJECT

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November 21, 2023

House Committee on Natural Resources  
1324 Longworth House Office Building  
Washing, DC 20515

RE: Western Shoshone Defense Project Opposition to the Mining Regulatory Clarity Act

Dear President Biden, Senators and Representatives:

The Western Shoshone Defense Project (WSDP) firmly opposes the Mining Regulatory Clarity Act, which represents an unprecedented giveaway of public lands to mining corporations. Under the bill, mining corporations would gain a near unlimited right to occupy as much public land as they want for their mining operations. The companies would gain the right to dump waste, dispose of toxic tailings, bulldoze roads, and construct pipelines across public lands, even on lands of deep cultural and ecological significance to Western Shoshone people. We urge you to oppose the legislation, which would exacerbate the harms caused by the mining industry.

Western Shoshone to this day use, occupy, live, hunt, gather and pray on the land now called Nevada. In 1863, the Western Shoshone by way of treaty allowed safe passage through Western Shoshone territory. The 1863 Treaty of Ruby Valley also allowed mining, as mining was known in 1863 by people who did not understand or comprehend the English language. In 1864 Nevada became a state and eight short years later the 1872 Mining Law was established. This plan was orchestrated by a governmental body that foresaw a future of mining resources at the expense of everything the land has to offer including plant life, animal life, and the most important resource, water. This same governmental body would deceive the Western Shoshone people and would break their own laws in order to achieve the end goal. Since the coming of Europeans to our territory, the Western Shoshone have been forced to sacrifice everything for the “greater good” to “enhance the economy” while we watch that same entity destroy our land.

The Western Shoshone and the United States government have a long-drawn-out legal history, where the legal system is stacked against all Indigenous Nations in its jurisdiction. In 1999 and in the early 2000’s the United Nations and other international legal fora have recognized that many of the legal problems and political obstacles facing the Western Shoshone people stem from the foundations of United States Federal Indian Law and Policy which falls far short of internationally recognized standards of Indigenous rights. These laws and policies which have been used against the Western Shoshone and other indigenous peoples in the U.S. stem from antiquated, racist concept known as the “doctrine of discovery.” See *Johson v M’Intosh*, 21 U.S. (8 Wheat) 543

(1823). This “doctrine” claims that Indigenous Peoples are “heathen”, “savage” and “childlike in nature”.

The U.S. has been directed previously through international communication to review all existing laws and policies and to ensure they are in compliance with contemporary human rights standards. Our position continues to be that the antiquated laws such as the 1872 Mining Law, and aspects of federal Indian law such as the plenary power doctrine must be addressed and reformed as they continue to impact Indigenous peoples such as the Western Shoshone in an unequal and racist manner based on colonial concepts such as the doctrine of discovery.

Declaration of the violation of Western Shoshone rights to due process, equality under the law, and right to property by the Inter-American Commission on Human Rights (IACHR) is found in the (Final Report 75/02). On March 6, 2002 the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) confirmed the Inter American Commission’s decision and rendered a full Urgent Action decision (68(1)) against the United States. The decision specifically instructs the United States to stop any further actions on Western Shoshone lands and calls for the opening of an immediate dialogue.

As you know, we are currently in a time of change fundamentally, environmentally, culturally and spiritually. As leaders of this “free” world it is time for you to examine your hearts and consider righting the historical wrongs this government has done not only to the Western Shoshone but to all Indigenous peoples of this nation.

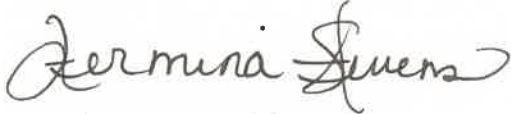
We now are especially concerned with this legislation because four key minerals that will be used for the energy transition – 97% of nickel, 89% of copper, 79% of lithium, and 68% of cobalt – are located within 35 miles of Native American Reservations. In addition, many existing and proposed mines are located on “federal lands” that is actually treaty lands of the Western Shoshone as written in the 1863 Treaty of Ruby Valley.

The proposed legislation contains a series of provisions designed to undermine the Federal Government’s authority to safeguard public lands. Under Section 2(e)(1)(B) of the Mining Regulatory Clarity Act, mining companies would receive a statutory right to permanently occupy and bury public lands under tons of toxic waste. Further Section 2(e)(1)(A) grants mining companies automatic rights-of-way for new pipelines, transmission lines, and roads across public lands – eliminating a central provision of the Federal Land Policy Management Act that requires mining companies to receive a permit for such uses just like every other industry operating on federal lands. The mining law of 1872 is already overly permissive- having caused disastrous consequences for our Indigenous communities, our health and our sacred sites, and this legislation would only increase those harms in the future.

As individuals with backgrounds in environmental health, forestry and as outdoorsmen who once cared about the environment and who want to protect resources for future generations; ask yourselves if this legislation is one of “enhancing conservation through innovation” as is the mission of this body. Your yes vote on this legislation will negatively affect the future of the environment and people you are sworn to protect.

The Mining Regulatory Clarity Act is poised to have devastating consequences on our ancestral lands and resources. The creation of tribal sacrifice zones in the name of the clean energy transition must stop. Indigenous communities use what are now federal public lands for resource collection, ceremonies, and other traditional cultural uses. This Administration has vowed to safeguard our cultural resources and to listen to tribes. The Mining Regulatory Clarity Act will impair our ability to use our ancestral lands forever and we ask that you reject it.

Sincerely,

A handwritten signature in cursive script that reads "Fermina Stevens". The signature is written in dark ink and is positioned above the printed name and title.

Fermina Stevens, Director  
Western Shoshone Defense Project