

**H.R. 7662, H.R. 7807, H.R. 8952,  
AND H.R. 10005**

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**LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON ENERGY AND  
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

\_\_\_\_\_  
Tuesday, November 19, 2024

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HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** House Committee on Natural Resources Republican Members

**From:** Energy and Mineral Resources Subcommittee Staff, Rob MacGregor—Robert.MacGregor@mail.house.gov, x6-2466, Jeanne Kuehl—Jeanne.Kuehl@mail.house.gov, x6-8312, and Will King—Will.King@mail.house.gov, x5-2925

**Date:** Tuesday, November 19, 2024

**Subject:** Legislative Hearing on H.R. 7662, H.R. 7807, H.R. 8952, and H.R. 10005

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing on H.R. 7662 (Rep. Houlahan), “*Critical Minerals Security Act of 2024*”; H.R. 7807 (Rep. Obernolte), “*Intergovernmental Critical Minerals Task Force Act*”; H.R. 8952 (Rep. Zinke), “*Crow Revenue Act*”; and H.R. 10005 (Rep. Hageman), “*Expedited Appeals Review Act*” or the “*EARA*”, on **Tuesday, November 19, 2024, at 2:15 p.m. in 1334 Longworth House Office Building.**

Member offices are requested to notify Jacob Greenberg (Jacob.Greenberg@mail.house.gov) by 4:30 p.m. on November 18, 2024, if their Member intends to participate in the hearing.

**I. KEY MESSAGES**

- Adversarial nations like China are increasing their investments mining around the globe. H.R. 7662 would require the Department of the Interior (DOI) to provide reports to Congress outlining which countries control which minerals and rare earth elements in the global supply chain.
- H.R. 7807 would establish an “Intergovernmental Critical Minerals Task Force” that would facilitate cooperation between Federal, State, and local governments, and industry to develop strategies to combat China’s massive influence in the critical minerals supply chain.
- H.R. 8952 is a land transfer that the Crow Tribe of Montana emphatically supports. The Hope Family Tracts on the Crow Reservation would transfer about 4,600 acres of private subsurface inholdings to the Crow Tribe of Montana. In return, the Tribe would transfer 4,530 acres of federal subsurface interests and 940 acres of federal surface interests to the Hope Family.
- DOI’s Interior Board of Land Appeals (IBLA) drawn-out appeals process has led to significant backlogs. Additionally, the IBLA is especially deferential to DOI’s respective bureaus. H.R. 10005 would force the IBLA to issue final decisions within six months, cutting red tape and ensuring quicker resolutions to keep projects moving forward.

## II. WITNESSES

### Panel I (Members of Congress):

- To Be Announced

### Panel II:

- **Dr. Colin Williams**, Program Coordinator, Mineral Resources Program, U.S. Geological Survey, U.S. Department of the Interior, Moffett Field, California [All bills]
- **Ms. Cheryl Lombard**, Senior Program Director—Power, Infrastructure, and Minerals, ClearPath Action, Washington, D.C. [H.R. 7807]
- **Mr. Frank White Clay**, Chairman, Crow Tribe of Indians, Montana [H.R. 8952]
- **Mr. Jonathon Travis**, Principal, Severance Tax, Ryan, LLC, Houston, Texas [H.R. 10005]
- **Mr. Derf Johnson**, Deputy Director, Montana Environmental Information Center, Helena, Montana [Minority Witness][H.R. 7807, H.R. 8952, H.R. 7662]

## III. BACKGROUND

### H.R. 7662 (Rep. Houlahan), “Critical Minerals Security Act of 2024”

H.R. 7662 would require a report from the Secretary of the Interior, in consultation with other relevant agencies, on critical mineral and rare earth element resources around the globe and also establishes a process by which the Secretary of the Interior—in consultation with the Secretary of State—aids U.S. citizens looking to divest stock in international critical mineral investments. It also directs the Secretary of the Interior to develop a strategy to collaborate with allied countries to establish advanced mining, refining, separation, processing technologies and intellectual property sharing methods.

China currently dominates the global critical mineral supply chain. In the Democratic Republic of the Congo (DRC), China controls 72 percent of the country’s cobalt and copper mines; just one of these projects, the Tenge Fungurume Mine, contributes 12 percent of the world’s cobalt production.<sup>1</sup> Additional knowledge of global mineral resources may provide U.S. companies with the data needed to commence mining activities internationally and, more accurately, tap global reserves.

In 2019, the United States Geological Survey (USGS) created the Critical Minerals Mapping Initiative (CMMI) in collaboration with Geoscience Australia and the Geological Survey of Canada to jointly conduct critical mineral research in all three countries.<sup>2</sup> USGS currently provides global mapping data and reports regarding global critical mineral availability.<sup>3</sup> This hearing will provide a forum to discuss USGS’s current mapping initiatives, DOI’s ability to provide divestment strategies to investors, and international intellectual property sharing.

<sup>1</sup>Desmond Egyin, *Addressing China’s Monopoly over Africa’s Renewable Energy Minerals*, Wilson Center (May 2, 2024), <https://www.wilsoncenter.org/blog-post/addressing-chinas-monopoly-over-africas-renewable-energy-minerals#:~:text=In%20the%20DRC%2C%20the%20country,where%20China's%20investments%20have%20underperformed.>

<sup>2</sup>USGS, Critical Mineral Mapping Initiative (August 2023), <https://www.usgs.gov/centers/gggsc/science/critical-minerals-mapping-initiative-cmmi>.

<sup>3</sup>USGS, Global distribution of selected mines, deposits, and districts of critical minerals, Interactive Map (last visited Nov. 11, 2024), <https://mrdata.usgs.gov/pp1802/>.

**Figure 1—Global distribution of selected mines, deposits, and districts of critical minerals<sup>4</sup>**



**H.R. 7807 (Rep. Obernolte), “Intergovernmental Critical Minerals Task Force Act”**

H.R. 7807 would establish an “Intergovernmental Critical Minerals Task Force” to facilitate cooperation between Federal, State, and local governments and industry representatives to decrease the U.S.’s reliance on adversarial nations for critical minerals.

In 2023, of the 50 minerals on USGS’s Critical Mineral List (CML), the U.S. was 100 percent net import reliant on 12 minerals and more than 50 percent net import reliant on another 29.<sup>5</sup> China led global production for 29 critical minerals for which accurate data was available, while only 13 were produced primarily in the U.S.<sup>6</sup> Despite recent efforts to revitalize the domestic critical mineral supply chain,<sup>7</sup> U.S. critical mineral production decreased by 24 percent from 2022 to 2023, partially due to subpar global commodity pricing and delays in bringing new mines online.<sup>8</sup>

H.R. 7807 would direct the President to appoint a Chair of the Intergovernmental Critical Minerals Task Force, who would appoint additional task force representatives with expertise in the critical mineral supply chain, including those from industry and Federal, State, and local governments. The task force would then provide recommendations, strategies, and a report to the President and Congress on ways to secure and foster the U.S.’s mineral supply chain and decrease reliance on adversarial nations. Contents of this report would include findings, guidelines, and recommendations created in the Task Force’s performance of the duties mandated under this bill.

Notably, in February 2022, the Department of the Interior announced that it would launch a “new interagency working group on reforming hardrock mining laws, regulations and permitting policies in the United States,”<sup>9</sup> which issued a report in September 2022 with recommendations for improvements in the sector.<sup>10</sup> While several of their suggestions were reasonable, some—like their supposition to impose a royalty on production and another to shift the current claims system to a leasing system<sup>11</sup>—would decimate mining on federal land. If enacted, H.R. 7807 could provide an opportunity to synthesize input from a broader range of entities to offer solutions that genuinely cultivate the U.S. critical mineral supply chain.

The bill also directs the Comptroller General to conduct a study and issue a report on the regulatory landscape related to improving domestic supply chains for critical minerals.

<sup>4</sup> *Id.*

<sup>5</sup> USGS, Mineral Commodity Summaries 2024, <https://pubs.usgs.gov/periodicals/mcs2024/mcs2024.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> DOI, Press Release, *Interior Department Launches Interagency Working Group on Mining Reform*, Feb. 22, 2022, <https://www.doi.gov/pressreleases/interior-department-launches-interagency-working-group-mining-reform>.

<sup>10</sup> DOI, Final Report, *Recommendations to Improve Mining on Public Lands*, Sept. 2023, <https://www.doi.gov/sites/default/files/mriwg-report-final-508.pdf>.

<sup>11</sup> *Id.*

**H.R. 8952 (Rep. Zinke), “Crow Revenue Act”**

H.R. 8952 would transfer about 4,600 acres of private subsurface inholdings from the Hope Family Tracts on the Crow Reservation to the Crow Tribe of Montana. In exchange, the Hope Family Trust would receive 4,530 acres of federal subsurface and 940 acres of federal surface interest. The bill also provides for a Revenue Sharing Agreement for the development of the transferred federal tracts, which will be determined by the Tribe and the Hope Family Trust should the minerals be developed at a later date.

The Crow Tribe of Montana’s reservation covers approximately 1.5 million checkerboarded acres in south-central Montana. The tribe owns approximately 550,000 acres of the reservation. The tribe’s economy is largely supported by revenues from the mining industry. Crow Reservation lands are rich in coal, gas, and oil, and the tribe benefits from leasing these lands for development.<sup>12</sup>

The tribe has mineral interests in the Absaloka Mine, located in Hardin, Montana. Since the early 1970s, the Crow collected revenue from Absaloka Mine.<sup>13</sup> However, changes in coal demand have reduced coal mining activity at Absaloka. In April 2024, Westmoreland Mining LLC, which mined Absaloka, announced it had shipped its last railcar of coal from Absaloka because the Sherburne County Generating Station in Becker, Minnesota, was shutting down as a generating unit in January and no longer needed coal from the mine.<sup>14</sup>



Signal Peak Energy is currently operating the only underground coal mine in Montana: the Bull Mountain Mine.<sup>15</sup> Despite reserves that can last over 50 years,<sup>16</sup> the mine will soon run out of recoverable reserves due to federal coal tracts that run in a checkerboard pattern across the area.<sup>17</sup> Despite repeated efforts and years of litigation to lease the federal coal, the Office of Surface Mining, Reclamation, and Enforcement (OSMRE) has failed to complete an environmental assessment.<sup>18</sup> H.R. 8952 would place the indicated tracts into private hands, allowing the mine and its 300 workers to continue operations.<sup>19</sup>

<sup>12</sup> Veronica E. Velarde Tiller, *Tiller’s Guide to Indian Country*, 3rd ed., 2015, p. 477.

<sup>13</sup> Toim Lutey, “Daines pursues Crow coal deal benefiting tribe, Signal Peak mine,” *Billings Gazette*, May 30, 2024, [https://billingsgazette.com/news/state-regional/government-politics/crow-indians-signal-peak-coal-mine-daines-hope-ranch/article\\_bd9e0ffa-1e17-11ef-a141-9f9bb77f0374.html](https://billingsgazette.com/news/state-regional/government-politics/crow-indians-signal-peak-coal-mine-daines-hope-ranch/article_bd9e0ffa-1e17-11ef-a141-9f9bb77f0374.html).

<sup>14</sup> *Id.*

<sup>15</sup> Signal Peak Energy, *Reimagining Underground Coal Mining*, (last visited Nov. 13, 2024), <https://www.signalpeakenergy.com/about#:~:text=Signal%20Peak%20Energy%2C%20LLC%20is,and%20cutting%20Dodge%20production%20methods.>

<sup>16</sup> *Id.*

<sup>17</sup> Darrell Ehrlick, *Signal Peak sues Department of the Interior for stalling on coal lease, says mine may have to close*, *Daily Montanan* (Apr. 25, 2024), <https://dailymontan.com/2024/04/25/signal-peak-sues-blm-for-stalling-on-coal-lease-says-mine-may-have-to-close/>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

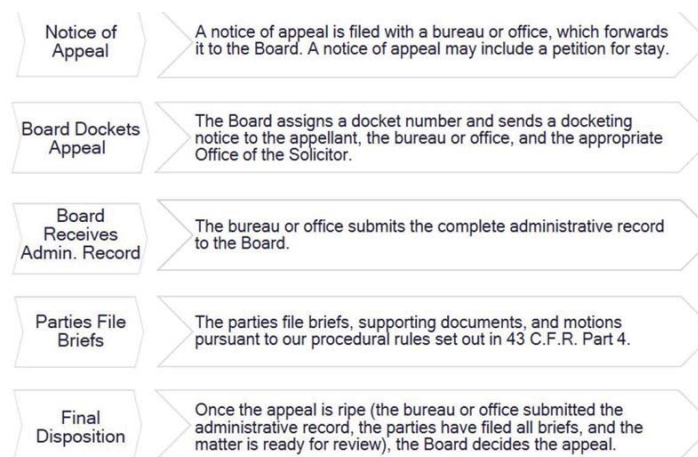


The Crow Tribe of Montana supports H.R. 8952,<sup>20</sup> which will replace some of the revenues that the tribe lost with the Absaloka Mine closure. The revenues will allow the Crow Tribe to provide resources to tribal members and supplement federal resources the tribe receives under the United States' trust responsibility toward all federally recognized tribes.

**H.R. 10005 (Rep. Hageman), “Expedited Appeals Review Act” or the “EARA”**

The Interior Board of Land Appeals (IBLA) is an appellate review board within DOI that is responsible for resolving disputes involving public lands and natural resources under DOI's jurisdiction. The IBLA has authority delegated by the Secretary of the Interior to issue final determinations on decisions made by the different bureaus within DOI. Appeals involving the following actions are decided by the IBLA: grazing, mining, energy development, royalty disbursement and management, timber harvesting, wildfire management, land exchanges, rights of way, and trespass.<sup>21</sup> The IBLA was created through regulation and is comprised of administrative judges who report to a Chief Administrative Judge. The current IBLA Chief Administrative Judge is Silvia Riechel Idziorek.<sup>22</sup>

The appeal process is governed by the regulations set forth in 43 C.F.R. Part 4.<sup>23</sup>



The Expedited Appeals Review Act (EARA) addresses long-standing inefficiencies in the IBLA's appeals process. The sheer volume of cases—combined with a process structured to favor agency deference—often leads to prolonged delays and rulings favoring the respective bureaus. The result is that many stakeholders, from energy developers to land users, find themselves entangled in a years-long appeals process that lacks timely resolution and clarity.

Current IBLA procedures have proven slow due to several factors. As the board oversees a diverse array of complex land, environmental, and resource-related cases, decisions are frequently subjected to rigorous, multi-layered review. This lengthy examination process often includes consultation with subject-matter experts and iterative exchanges between the board and the bureau issuing the original decision.

<sup>20</sup> Hearing, Committee on Indian Affairs: “Legislative Hearing to receive testimony on S. 4444, S. 4633, S. 4643, S. 4705, S. 4998 and Business Meeting to consider S. 465, S. 2908, S. 4370” (Sept. 25, 2024) (testimony of Chairman Frank White Clay), *available at* <https://www.indian.senate.gov/wp-content/uploads/09-25-2024-White-Clay-Testimony.pdf>

<sup>21</sup> U.S. Department of the Interior, *About the Interior Board of Land Appeals*, <https://www.doi.gov/oha/about-interior-board-land-appeals>.

<sup>22</sup> *Id.*

<sup>23</sup> U.S. Department of the Interior, *IBLA Annual Report Fiscal Year 2023*, <https://www.doi.gov/media/document/ibla-annual-report-fiscal-year-2023>.

While these safeguards are intended to uphold a high standard of review, they also create bottlenecks that can drag cases out for extended periods, particularly in situations requiring substantial technical assessments or those impacted by evolving regulations. Consequently, the IBLA has over 650 pending appeals dating back to 2014.<sup>24</sup>

The IBLA's deference to the original bureau decision is significant. The board upholds agency determinations in a vast majority of cases, reflecting a deeply ingrained institutional bias toward the initial judgment. According to the IBLA Annual Report for Fiscal Year 2023,<sup>25</sup> the IBLA ruled in favor of the respective bureaus roughly 90% of the time. Moreover, the IBLA's decisions are based upon bureau-curated administrative records with limited opportunities for appellants to supplement or challenge the record. Much of the record is withheld from the appellant for "deliberative process" purposes, thereby shielding the agency's decision-making process from attack. These process realities can disincentivize stakeholders from pursuing appeals, as the outcome is often predictably aligned with the agency's stance.

The EARA seeks to mitigate these issues by creating an alternative path for appellants seeking expedited reviews. The bill allows stakeholders to request an accelerated decision on their appeal and forces the IBLA to issue a decision within six months of such a request. If this deadline is not met, the agency decision will automatically become eligible for de novo judicial review outside of DOI. This new pathway aims to alleviate the backlog in administrative court by providing a more efficient and predictable recourse for those facing extended delays on appeals.

#### IV. MAJOR PROVISIONS & ANALYSIS

##### **H.R. 7662 (Rep. Houlahan), "Critical Minerals Security Act of 2024"**

- Requires a report on critical mineral and rare earth element resources around the globe.
- Establishes a process by which the Secretary of the Interior aids U.S. citizens looking to divest stock in international critical mineral investments.
- Directs the Secretary of the Interior, in consultation with the heads of other relevant Federal agencies, to develop a strategy to collaborate with allied countries to develop advanced mining, refining, separation, and processing technologies and intellectual property sharing methods.

##### **H.R. 7807 (Rep. Obernolte), "Intergovernmental Critical Minerals Task Force Act"**

- Includes findings enumerating the importance of critical minerals.
- Amends Section 5 of the National Materials and Minerals Policy, Research and Development Act of 1980 to create an "Intergovernmental Critical Minerals Task Force" to assess the reliance of the U.S. on China and other adversarial countries for critical minerals.
- Requires the Task Force to report its findings and brief relevant Congressional committees.
- Directs the Comptroller General to issue a report examining the Federal and State regulatory landscape for improving domestic critical mineral supply chains.

##### **H.R. 8952 (Rep. Zinke), "Crow Revenue Act"**

- Transfers about 4,600 acres of private subsurface inholdings from the Hope Family Tracts on the Crow Reservation to the Crow Tribe of Montana; the Hope Family Trust would then receive 4,530 acres of federal subsurface and 940 acres of federal surface interests in Montana.
- The bill also provides for a Revenue Sharing Agreement to develop these tracts.

<sup>24</sup> U.S. Department of the Interior, IBLA 2024 Pending Appeals, <https://www.doi.gov/sites/default/files/documents/2024-11/october-2024-pending-appeals.pdf>

<sup>25</sup> U.S. Department of the Interior, *IBLA Annual Report Fiscal Year 2023*, <https://www.doi.gov/media/document/ibla-annual-report-fiscal-year-2023>.

**H.R. 10005 (Rep. Hageman), “*Expedited Appeals Review Act*” or the “*EARA*”**

- Establishes an expedited review process within the Interior Board of Land Appeals to address delays and agency deference; mandating decisions within six months or allowing de novo judicial review.
- Reduces the backlog of over 650 pending cases and enhances fairness and transparency in public land and resource dispute appeals.

**V. COST**

The Congressional Budget Office has yet to score any of these bills.

**VI. ADMINISTRATIVE POSITION**

Unknown.

**VII. EFFECT ON CURRENT LAW (RAMSEYER)**

**H.R. 7807**

[https://naturalresources.house.gov/uploadedfiles/bill-to-law\\_118hr7807ih.pdf](https://naturalresources.house.gov/uploadedfiles/bill-to-law_118hr7807ih.pdf)



**LEGISLATIVE HEARING ON H.R. 7662, TO REQUIRE REPORTS ON CRITICAL MINERAL AND RARE EARTH ELEMENT RESOURCES AROUND THE WORLD AND A STRATEGY FOR THE DEVELOPMENT OF ADVANCED MINING, REFINING, SEPARATION, AND PROCESSING TECHNOLOGIES, “CRITICAL MINERALS SECURITY ACT OF 2024”; H.R. 7807, TO CREATE INTERGOVERNMENTAL COORDINATION BETWEEN STATE, LOCAL, TRIBAL, AND TERRITORIAL JURISDICTIONS, AND THE FEDERAL GOVERNMENT TO COMBAT UNITED STATES RELIANCE ON THE PEOPLE’S REPUBLIC OF CHINA AND OTHER COVERED COUNTRIES FOR CRITICAL MINERALS AND RARE EARTH METALS, AND FOR OTHER PURPOSES, “INTERGOVERNMENTAL CRITICAL MINERALS TASK FORCE ACT”; H.R. 8952, TO TAKE CERTAIN MINERAL INTERESTS INTO TRUST FOR THE BENEFIT OF THE CROW TRIBE OF MONTANA, AND FOR OTHER PURPOSES, “CROW REVENUE ACT”; AND H.R. 10005, TO ESTABLISH A PROCESS TO EXPEDITE THE REVIEW OF APPEALS OF CERTAIN DECISIONS BY THE DEPARTMENT OF THE INTERIOR, “EXPEDITED APPEALS REVIEW ACT”, OR “EARA”**

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**Tuesday, November 19, 2024  
U.S. House of Representatives  
Subcommittee on Energy and Mineral Resources  
Committee on Natural Resources  
Washington, DC**

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The Subcommittee met, pursuant to notice, at 2:18 p.m. in Room 1334, Longworth House Office Building, Hon. Pete Stauber [Chairman of the Subcommittee] presiding.

Present: Representatives Stauber, Wittman, Graves, Rosendale, Collins; Ocasio-Cortez, Huffman, Kamlager-Dove, and Magaziner.

Also present: Representatives Hageman, Obernolte, Zinke; and Houlahan.

Mr. STAUBER. The Subcommittee on Energy and Mineral Resources will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member.

I ask unanimous consent that the gentlewoman from Wyoming, Ms. Hageman; the gentleman from California, Mr. Obernolte; the gentleman from Montana, Mr. Zinke; and the gentlewoman from Pennsylvania, Ms. Houlahan, be allowed to participate in today's hearing.

Without objection, so ordered.

I now recognize myself for an opening statement.

**STATEMENT OF THE HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. STAUBER. Today's hearing focuses on pivotal legislation aimed at strengthening the United States' natural resource policy. We will examine H.R. 7662, the Critical Minerals Security Act of 2024; H.R. 7807, the Intergovernmental Critical Minerals Task Force Act; H.R. 8952, the Crow Revenue Act; and H.R. 10005, the Expedited Appeals Review Act. These bills share a common purpose: to secure America's natural resources, expedite fair processes, and ensure intergovernmental collaboration.

At this point in the Congress, we are all well aware of the essential role critical minerals and rare earth elements play in our economic and national security. And while it is vital we are able to access our deposits here at home, our first bill, H.R. 7662, the Critical Minerals Security Act of 2024, speaks to the global reality of much of this resource supply chain, one predominantly dictated by the communist country of China.

For example, China currently controls 72 percent of the Democratic Republic of the Congo's cobalt and copper. Just one of these Chinese-operated industrial mines provides 12 percent of the world's total cobalt supply. H.R. 7662 would direct the Secretary of the Interior, in consultation with the heads of relevant Federal agencies, to submit a report to Congress on the critical mineral and rare earth element resources around the world.

While I appreciate the underlying idea of this bill, I have some practical questions regarding how the Department of the Interior would facilitate certain portions of this report, and if these efforts are already underway.

Our next bill, H.R. 7807, is the Intergovernmental Critical Minerals Task Force Act, introduced by Representative Obernolte of California. As critical minerals are truly the essential building blocks of every sector of our economy, multiple agencies have authority over various fragments of the critical minerals supply chain. But this also means that identifying solutions for onshoring various aspects of the supply chain can be lost in a tangle of bureaucratic and jurisdictional webs.

H.R. 7807 would establish an Intergovernmental Critical Minerals Task Force to facilitate cooperation between Federal, state, and local governments and industry representatives to decrease the United States' reliance on adversarial nations for critical minerals. This task force would be responsible for providing recommendations to Congress and the president on how to reduce U.S. mineral dependence.

Next, we have H.R. 8952, the Crow Revenue Act, introduced by Representative Zinke of Montana. H.R. 8952 would transfer about 4,600 acres of private subsurface inholdings from the Hope Family Tracts within the Crow Reservation to the Crow Tribe of Montana. In exchange, the Hope Family Trust would receive 4,530 acres of Federal subsurface and 940 acres of Federal surface interest.

The bill also provides for a revenue-sharing agreement for the development of these tracts, to be determined by the tribe and the Hope Family Trust, should the minerals be developed at a later date.

H.R. 8952 would also allow Bull Mountain, a coal mine in Montana, to remain open. This bill is a win for the Crow Tribe, a win for the 300 employees at Bull Mountain Mine, and a win for the Montanans that benefit from the existing revenues and taxes that the mine generates.

And I am excited to have Chairman White Clay of the Crow Tribe here today to tell us more about why the tribe so strongly supports this measure.

Lastly, I want to underscore the urgency of passing H.R. 10005, the Expedited Appeals Review Act, which addresses critical flaws in the current Interior Board of Land Appeals process. The Interior Board of Land Appeals, commonly referred to as the IBLA, functions as an appellate review body within the Department of the Interior, resolving disputes related to public lands, mineral resources, energy development, and other natural resources issues under DOI's jurisdiction.

However, the IBLA's process often denies justice altogether, as many cases are not decided but simply expire, effectively resulting in an automatic denial without any substantive decision. The IBLA has become burdened with over 600 pending appeals, and has shown an institutional bias, affirming government decisions in nearly 90 percent of the cases just last year. This results in long delays and a process that deters justice.

The Expedited Appeals Review Act offers an essential off-ramp for appellants, setting a 6-month deadline upon request for decisions, and allowing judicial review without agency deference if the timeline is missed. This reform promotes timely, equitable resolutions, a necessity for stakeholders navigating complex resource management laws.

I am proud to be a co-sponsor of this legislation, and I want to thank the gentlewoman from Wyoming, Representative Hageman, for her leadership in introducing this legislation.

Together, these legislative efforts embody a commitment to efficiency, fairness, and natural resource security. I look forward to hearing more on the merits of these bills from our witnesses.

The Ranking Member is going to be a little bit late. When she comes in, I will allow her to make her opening statement, as well.

I want to now begin our Member panel who will speak on their legislation. I will now recognize Ms. Harriet Hageman from Wyoming's at-large congressional district for her testimony on her bill.

**STATEMENT OF THE HON. HARRIET M. HAGEMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING**

Ms. HAGEMAN. Thank you, Mr. Chairman. It is wonderful to be here. And thanks to each of the witnesses for being here today. We are grateful for your input and expertise.

To state the obvious, there have been a lot of bad decisions made over the past 4 years by the current Administration, which is why the American people decisively voted to put President Donald Trump back in the White House on November 5. Some of the worst decisions made by President Biden and VP Harris have gone through the Department of the Interior. They allowed our land management agencies to wreak havoc on our rural communities by locking up our land and resources and jeopardizing our livelihoods under the dictates of President Biden's radical 30x30 agenda.

I just want to begin by expressing my gratitude to the American people for caring about our legacy industries, for caring about energy independence, and for caring about the rights of Americans to produce affordable and reliable energy for the world.

I am grateful for the opportunity to testify in support of my bill, the Expediting Appeals Review Act, or EARA, which provides an off-ramp for entities whose cases are pending before the Interior Board of Land Appeals, or IBLA.

The IBLA is a regulatory constructed pseudo-judicial administrative court within the Department of the Interior. It was created in 1971 and oversees the appeals of agency actions, including those from the Bureau of Land Management, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement, the Office of Natural Resources Revenue, and the Office of Surface Mining Reclamation and Enforcement.

As of right now, there are eight administrative judges appointed to the IBLA, four of which were appointed last year, with over 600 appeals sitting in front of them and have been pending for the last 5 years. Most cases are not subject to a timeline. And for those that are, the IBLA typically fails to rule, resulting in deemed "wins" for the Department. As one can imagine, in an administrative court created by the Federal Government, the record is usually heavily redacted, oftentimes excluding important testimony and records that would be favorable to the appellant. So, parties filing for an appeal end up sitting in a queue for years at a time, paying heavy legal fees for nothing to get done, only for a decision to finally be made against them before they can finally go to an actual court to have their case heard.

My bill allows appellants the opportunity to file a notice requesting an expedited appeal. If such a notice is filed seeking IBLA review, the case then has 6 months to be resolved. If the Secretary fails to comply, the case is automatically decided in the government's favor, but no deference is given to the decision. In other words, it makes the decision irrelevant, so there is no



incentive for the Secretary to sit on his or her hands and continue to do nothing.

The appealing party is then given the opportunity to proceed to district court to have their case heard before a more neutral arbiter. Importantly, it also allows those who wish to have their cases remain before the IBLA to do so if they so choose.

The industries who have borne the brunt of the bad decisions made over the last 4 years have spoken in strong support of my bill, including the National Mining Association, the U.S. Oil and Gas Association, the Independent Petroleum Association of America, ConocoPhillips, and the American Petroleum Institute.

Again, I am very grateful for the opportunity to be here today to testify on this important bill, and I just want to thank all of those who have supported the crafting of this legislation, and specifically thank Mr. Travis for being here today to testify in support, as well.

Thank you, Mr. Chairman, and I yield back.

Mr. STAUBER. I thank the gentlewoman for her testimony. I now recognize Representative Obernolte from California's 23rd Congressional District for his testimony on his bill.

**STATEMENT OF THE HON. JAY OBERNOLTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. OBERNOLTE. Thank you very much, Mr. Chairman, and thank you for allowing me to waive on today. And can I just say I miss this Committee? We have to talk to Steering. It is not fair that they make us, no, it is true. I miss all you guys. This is a great Committee, and I miss being on here.

It is an honor to me to be here to present H.R. 7807, the Intergovernmental Critical Minerals Task Force Act. And I know I don't have to tell anyone on this dais or any members of our distinguished panel here about the importance of ensuring U.S. leadership in critical minerals production. We have so many technological and environmental goals that will only be met if we are equally meeting the challenge of producing the critical minerals that we need here in the United States.

But I am sure I also don't have to tell you that we are woefully behind in that mission. In 2022, the Government Accountability Office did a study on key obstacles to critical minerals production in the United States, and they came up with some pretty alarming data. They identified the limited domestic infrastructure here in the United States, insufficient scientific research, environmental concerns here, and also workforce gaps in the United States.

If you look at the last couple of years, it is particularly alarming. In last year, 2023, if you look at the 50 minerals on the USGS's Critical Minerals List, the United States is 100 percent reliant on net imports for 12 of those minerals, 100 percent reliant. And we are more than 50 percent reliant on another 29 of those minerals. That is absolutely something we need to correct if we are going to maintain U.S. leadership on this issue.

Equally alarming to me is the fact that if you look at all the minerals on the list that we have accurate data for, 29 of those are minerals where China leads worldwide production. Only 13 of those are minerals that are produced primarily here in the United States.

And also, I am equally alarmed by the fact that between 2022 and 2023, U.S. production of critical minerals decreased by 24 percent. This bill is an effort to rectify that situation.

[Audio malfunction.]

Mr. OBERNOLTE. It would create——

Mr. STAUBER. Would the gentleman suspend for a moment?

Ma'am, are you able to help us?

[Pause.]

Mr. OBERNOLTE. Not too bad. It was working well for a minute there.

So, this bill, H.R. 7807, is an attempt to rectify that situation. It establishes a presidential task force with representatives from Federal agencies who, in consultation with state, local, territorial, and tribal governments, will make recommendations on how to address the national security risks associated with America's critical mineral supply chains. So, hopefully, the report that this task force would issue would be a guiding principles document that would help future Congresses in rectifying this situation.

This bill is a companion bill to a Senate bill. So, if we can get this off the House this year, it has already passed the Senate, and we will get it on to the President's desk. It has broad bipartisan support, and I hope to get your support on that bill.

I thank you very much for your consideration and I yield back.

Mr. STAUBER. Thank you very much for your testimony. You are welcome back on Natural Resources any time.

I now want to recognize Mr. Zinke from Montana's 1st Congressional District for his testimony on his bill.

**STATEMENT OF THE HON. RYAN K. ZINKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA**

Mr. ZINKE. Thank you, Mr. Chairman and members of this august Committee. I stand in honor of introducing H.R. 8952, the Crow Revenue Act.

As a former Secretary, this is an example of big government overlooking the sovereignty of a nation. Looking at it, if you were in a county, you wouldn't have this problem. But because you are a sovereign nation, and we should honor what the sovereignty of a nation is, then it requires an Act of Congress to change what would ordinarily be a very common conveyance of property.

And unfortunately, or fortunately, this conveyance involves BLM, it involves a private party, and it involves a nation, the Crow Agency. Because it is trust land, it also involves the Bureau of Indian Affairs, Department of the Interior, and a myriad of other departments which probably should have no say in it anyway.

So, Mr. Chairman, what this bill does is it simply enacts a conveyance between the three parties on a sovereign nation. The conveyance is all, the entirety, within the Crow Reservation in Montana. It is a very short read. We understand there is also, from the Department of the Interior on their review, there is a small technical change that has to be made, and we will be offering that technical amendment during markup.

But I appreciate everyone's attention on this issue, because this is one of many issues among Indian Country. And I can tell you, if you are a county commissioner, you would be surprised of how

much paperwork, exhaustive, different governments, different agencies have a say in what ordinarily would be an easy problem.

So, I commend the Chairman White Clay for doing what a leader does. He takes care of his people. This is a great example of big government, and hopefully this Committee will do the right thing.

I yield back.

Mr. STAUBER. I thank you for your testimony, Mr. Zinke.

I am going to now allow the Ranking Member, Representative Ocasio-Cortez, for her opening statement.

**STATEMENT OF THE HON. ALEXANDRIA OCASIO-CORTEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Ms. OCASIO-CORTEZ. Thank you, Chair Stauber. I will say it is very refreshing to be here today to discuss two bipartisan critical minerals bills. Both H.R. 7662, the Critical Minerals Security Act sponsored by Representative Houlahan, and H.R. 7807, the Intergovernmental Critical Minerals Task Force Act sponsored by Representative Obernolte, take common-sense approaches to secure our critical minerals supply chains.

Everyone in this room agrees that we must proactively manage the minerals that are crucial for our country's energy future. We all rely on secure sources of minerals that affect so much of our everyday lives, from our cell phones to solar panels. And we all want to make sure that in the process of procuring those minerals, we are keeping workers, the environment, and our economy safe.

To improve health, environmental, and labor standards across the globe, and to diversify our supply chains away from bad actors, we first need to better understand where critical minerals are and who controls them. The Critical Minerals Security Act would fill in critical information gaps by directing the United States Geological Survey to report on critical minerals around the world, where they are, and what is being extracted, and who is mining them.

And while understanding mining is essential, it is not the whole picture. Recycling already plays a key and growing role in our supply chains. I understand that the Senate plans to better incorporate recycling into the Critical Minerals Security Act, and I fully support that common-sense addition.

H.R. 7807, the Intergovernmental Critical Minerals Task Force, provides needed strategic coordination for our efforts to secure mineral supply chains. Despite what we hear from across the aisle, we cannot mine our way into mineral security, just like we can't drill our way into energy security. This bill brings together all the agencies working on critical minerals, along with state, local, and tribal governments to coordinate these efforts. We need a whole-of-government approach to securing our mineral supply chains that looks beyond just domestic mining to international trade, recycling, and the efficient use of our minerals. A holistic approach is better for people, the economy, and the planet, and it makes us more nimble, adaptable, and secure as a nation.

The next bill, H.R. 8952, the Crow Revenue Act, is billed by its sponsors as delivering much-needed revenue to the Crow Tribe. While I strongly support the Crow Tribe's right to economic self-determination, this bill is a bad deal.

Right now, private landowner owners, the Hope family, own mineral rights to land within the boundaries of the Crow Reservation in Montana. In exchange for the Hope family giving their mineral rights to the Crow Tribe, this bill would give the Hope family over 4,000 acres of coal-rich Federal land in the nearby Bull Mountains. The idea is that the Hope family would sell or lease their new land to the Signal Peak coal mine, and the Crow Tribe would share in revenue from the mine.

A few problems with this deal.

First problem, this bill should be understood simply as a way for a coal company with a flagrant history of environmental and worker safety violations to skirt environmental review by moving to newly privatized land. Signal Peak Energy has been trying for years to expand its Bull Mountain coal mine into the Federal lands at the heart of this land swap, but courts have repeatedly blocked the expansion due to inadequate environmental review. If these public lands in the Bull Mountains become private, Signal Peak, a scandal-plagued company recently fined \$1 million by the Department of Justice and sentenced to 3 years of probation, could then skip all Federal environmental reviews and begin mining.

The second problem is that, despite what we will hear today, the bill doesn't actually require any revenue sharing with the Crow Tribe. Instead, this bill suggests the Crow Tribe share their revenues from the former Hope family lands within the Crow Reservation with the Hope family, even though it is highly unlikely that coal will ever be developed.

I ask unanimous consent to enter into the record this letter from the ApsáaLooke Allottees Alliance, an organization of Crow members living on the reservation, which says in part, "The Hope family would receive 100 percent of the royalties from the Bull Mountain tracts, as well as an unspecified share of the royalties from the 100 percent tribally-owned Hope family tracts. The tribe would be required to gratuitously give a share of the coal royalties from those lands."

There are also no requirements to the bill that the Signal Peak or the Hope family are under any obligations to enter into agreement to share the royalties fairly.

Mr. STAUBER. Without objection, entered.

[The information follows:]

**Apsáalooké Allottees Alliance  
Crow Agency, MT**

July 11, 2024

Hon. Brian Schatz, Chairman  
Hon. Lisa Murkowski, Vice Chair  
Senate Indian Affairs Committee  
838 Hart Senate Office Building  
Washington, DC 20510

Re: Letter of Opposition to Senate Bill 4444

Dear Schatz and Murkowski:

The Apsáalooké Allottees Alliance is an Indigenous, non-profit advocacy organization dedicated to helping and educating individual Apsáalooké trust allotment landowners, including all aspects of allotted land and water rights issues. We reside on the Crow Reservation in southern Montana. We are no strangers to those who seek to take advantage of our lands and waters, offering much in return and delivering nothing. We fear that the “Crow Revenue Act” (S. 4444 from Senator Steve Daines) is more of the same.

According to our Crow Constitution, our chairman, Frank White Clay, cannot act on his own. He must take this major decision to the Crow General Council. Anything of this magnitude must go to the Council where it would normally be subject to a referendum vote.

Some Montana politicians are calling S. 4444 a “commonsense solution” and claim it will bring new revenue to our people. This is not the case. A close reading of the bill text reveals that the federal government will give the Hope Family 4,530 acres of subsurface mineral interests and 940 acres in surface interests next to a currently operating and profitable coal mine in the Bull Mountains. In exchange, the Hope Family will convey to the Tribe only its mineral interests (4,660 acres of mineral rights) as to which there is no nearby coal mining taking place and there is not likely to be any in the future. In addition, if the Crow Nation were ever to pursue the development of the Bighorn County tracts, we would have to enter into a revenue agreement “*if those mineral interests are developed at a later date.*” Senator Daines’ Fact Sheet describing the details of S. 4444 misstates this provision of the bill. The statement in the Fact Sheet that Sec. 3 of the bill “requires the Hope Family and the Crow Tribe to enter into a revenue sharing agreement[s] for the development of any mineral interests in the Bull Mountain Tracts,” is wrong. The relevant provision in the bill states:

(d) REVENUE SHARING AGREEMENT.—The Tribe shall notify the Secretary, in writing, that the Tribe and the Hope Family Trust have agreed on a formula for sharing revenue from development of the mineral interests described in subsection (a)(2) if those mineral interests are developed at a later date.

Contrary to a statement in Senator Daines’ Fact Sheet, Sec. 3(a)(2) of the bill refers to the Hope Family Tracts, not the Bull Mountain Tracts. The Bull Mountain Tracts are likely to be mined for coal, while the Hope Family Tracts are not. Rather than requiring the Hope Family Trust to share revenue with the Crow Tribe from the Bull Mountain Tracts, the bill requires the Tribe to share revenue from the Hope Family Tracts (in the unlikely event they were ever mined for coal) with the Hope Family Trust, despite the fact that 100% of the mineral rights beneath the Hope Family Tracts are to be held in trust by the United States for the Crow Tribe. Thus, the Hope Family Trust would receive 100% of the royalties from the Bull Mountain Tracts, as well as an unspecified share of royalties from the 100% tribally owned Hope Family Tracts. Sec. 3(d) of the bill, “Revenue Sharing Agreement,” creates a burden on the mineral rights the Tribe would receive in favor of the Hope Family Trust. The Tribe would be required to negotiate with the Hope Family Trust to gratuitously give it a share of the coal royalties from the those lands before those lands could be mined. There is no justification for this, and it can only be characterized as outrageous.

It is also important to note that the Bull Mountain Tracts are currently leased by the United States for coal mining, with royalties payable to the United States. The net result of this legislation would be to give valuable mineral rights and coal royalties otherwise payable to the United States to the Hope Family Trust. There

is no justification for gratuitously enriching the Hope Family Trust at the expense of the United States, in return for the Tribe receiving mineral rights of little real value.

Our people have been promised more than is delivered time and time again. The Crow do not need another beautifully wrapped birthday present, only to open it and find it is empty inside. The Crow People have great need for revenue, infrastructure, and investments on Tribal and Allotted land. This bill provides none of these things.

We have worked hard to protect our culture, our land, our water, and our people. S. 4444 is an injustice reminiscent of so many in our history and Native history in this country. It would be yet another grave injustice to allow this bill to pass. Please vote no on this bill.

Sincerely,

*Michael Hill,*  
President

*Alee Bird Hat,*  
Vice-President

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Ms. OCASIO-CORTEZ. Thank you. Given that Signal Peak is currently on probation with the Department of Justice, and multiple former members of its leadership were criminally convicted of embezzlement, tax evasion, bank fraud, money laundering, cocaine trafficking, and firearms violations, forgive me for questioning if they would act in good faith in this deal.

I look forward to hearing if the bill's sponsors have fixed this section, as promised in the Senate hearing on the bill. But I remain skeptical that even a fix would be a good deal for the public and the Crow Tribe.

Thank you, and I yield back.

Mr. STAUBER. I thank the gentlewoman for her testimony. We will now recognize Representative Houlahan from Pennsylvania's 6th Congressional District for her testimony on her bill.

**STATEMENT OF THE HON. CRISSY HOULAHAN, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA**

Ms. HOULAHAN. Thank you, Chairman Stauber. And thank you, Ranking Member Ocasio-Cortez, for, first of all, allowing me to be here and waiving on, and for the opportunity to speak about this issue, an issue that is vital to our national security, to our economic resilience, and to our energy independence. And that issue is securing our critical mineral supply chains.

I am here to advocate for my bill, which is H.R. 7662, Critical Minerals Security Act, which is being marked up today in the Senate. The fact that this legislation is moving forward in both chambers at the very same time should underscore the bipartisan and bicameral recognition of just how truly pressing this issue is to the future of our nation.

I know that the members of this Committee are very aware of the importance of critical minerals, minerals like lithium or cobalt, and rare earth elements to our 21st century economy and national security. From my perspective as a member of the House Armed Services Committee, the Intelligence Committee, and as co-chair of the bipartisan Climate Solutions Caucus, I also recognize the profound impact that these minerals have on our U.S. economy, energy, climate, and again I emphasize, national security.

Critical minerals are the backbone of countless essential technologies and industries that power and also protect our nation, from semiconductors and energy infrastructure to advance defense systems. As our reliance on these technologies grow, so does the urgency of securing these supply chains. Despite the critical role of these minerals and that these minerals play, and the sensitivity of many of their uses, the United States remains alarmingly dependent on foreign sources, with a substantial portion of these resources acquired from adversarial nations.

In fact, according to the 2024 U.S. Geological Survey's Mineral Commodity Summary, the United States imports between 50 percent and 100 percent of critical minerals that we rely on, and that dependency applies to 41 out of the 50 minerals that are designated as critical by the USGS. To expand on that stark reality, the United States currently sources as many as 24 different critical minerals from foreign adversaries, adversaries like China and Russia, to meet our needs. This dependence poses serious national security risks and leaves the United States vulnerable to supply chain disruptions.

Specifically, it makes our supply chains susceptible to geopolitical tensions, to price manipulation, and to export restrictions as well. It delays our ability to diversify and to deploy energy technologies, and it undermines our capacity to compete globally in emerging markets.

My bill, the Critical Minerals Security Act, would first act as a step in directly addressing these challenges through practical and forward-looking solutions. The goal of this bill is to provide the United States, our companies, and our allies with the data and tools that are needed to be able to diversify, strengthen, and secure our critical mineral supply chains.

First, the bill directs the U.S. Secretary of the Interior to submit a report to Congress every 2 years on critical minerals and rare earth element resources globally. This report includes detailed information on the entities that control these resources.

Second, the legislation requires the Secretaries of the Interior and state to work together to create a process that helps American companies shift their mineral sourcing to more reliable partners and to reduce risks in their supply chain.

Third, the bill directs the Secretary of the Interior to report to Congress on two key strategies: first, how can the United States work with allies and our partners to develop modern technologies for mining, refining, separating, and processing critical minerals; and secondly, how can we share those innovations with our allies and our partners?

This Act is a bipartisan and bicameral effort. It brings together members from both parties and both chambers to advance a solution that benefits the whole of our nation and strengthens our leadership abroad. I am proud to have worked across the aisle to champion this bill. I deeply appreciate the Senate's efforts to advance it alongside us here in the House.

And in closing, this legislation represents a forward-looking strategy or solution to one of the most pressing challenges of our time. It will strengthen our economic resilience, protect our national security, and position the United States as a competitive

global leader, and a leader that defends labor and environmental standards in the critical mineral sector, as well. So, thank you for your time and for the opportunity to speak on this critical issue. I look forward to working with this Committee and with my colleagues in the Senate to make sure we move forward this very critical legislation.

Thank you, and I yield back.

Dr. WITTMAN [presiding]. I thank the gentlewoman for her testimony. We will now introduce our second panel of witnesses.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the “talk” button on your microphone.

We do use timing lights, so please keep abreast of those. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of 5 minutes, the light will turn red and the gavel will sound, and I will ask that you please complete your statement.

I will also allow all witnesses to testify before Member questioning.

Our first witness is Dr. Colin Williams. He is the Program Coordinator for the U.S. Geological Survey’s Mineral Resources Program, and he is stationed in Moffett Field, California.

Dr. Williams, you are now recognized for 5 minutes.

**STATEMENT OF COLIN WILLIAMS, PROGRAM COORDINATOR,  
MINERAL RESOURCES PROGRAM, U.S. GEOLOGICAL SUR-  
VEY, U.S. DEPARTMENT OF THE INTERIOR, MOFFETT FIELD,  
CALIFORNIA**

Dr. WILLIAMS. Chairman Stauber and Ranking Member Ocasio-Cortez, thank you for inviting me here today to discuss the legislation pending before the Subcommittee. My name is Colin Williams, and I lead the U.S. Geological Survey’s Mineral Resources Program.

As the science arm of the Department of the Interior, the USGS provides impartial, actionable science on the energy and mineral resources that underpin America’s national and economic security. We publish official statistics on the domestic and global supply of mineral commodities, assess U.S. mineral resources, and provide supply chain analyses that inform policy decisions and Federal and private-sector investment.

We also co-chair the National Science and Technology Council’s Interagency Critical Minerals Subcommittee. Within this subcommittee, we have worked to quantify and model mineral criticality across all sectors of the U.S. economy. We first implemented this approach to develop the 2018 list of critical minerals, and have continued to update the list every 3 years, as mandated by the Energy Act of 2020, including providing opportunities for inter-agency consultation and public comment.

We are incorporating new, realistic disruption scenarios into the updated methodology for the upcoming 2025 list to better represent supply chain risks and their potential effects on the U.S. Gross Domestic Product, or GDP. For example, using elements of the



updated methodology, we recently showed that if China completely suspends gallium and germanium exports, U.S. GDP could be reduced by \$3.4 billion.

Working with partners inside and outside of government, we have also built analytic capabilities to identify and address supply chain vulnerabilities and resource issues across the entire mineral space, from resource extraction to processing, manufacturing, disposal, and recycling and reprocessing waste.

Through our Earth Mapping Resources Initiative, or Earth MRI, we are working with states and other partners to collect modern geoscience data across the United States and develop new maps and assessments of our critical mineral resources. We are collaborating with the Defense Advanced Research Projects Agency, DARPA, and the Advanced Research Projects Agency, Energy, ARPA-E, to deploy artificial intelligence and machine learning to accelerate the use of our Earth MRI data to quantify the nation's mineral resources.

Finally, we are developing the first national inventory to assess domestic resources and mine and energy waste. We have expanded our annual mineral commodity summaries with additional data on import reliance and recycling, and are providing support to other Federal agencies for decisions on grants, loans, and tax code changes focused on critical mineral production and processing.

We have also supported the Administration and Congress on mineral supply chain issues, such as those resulting from China's imposition of export controls on antimony, gallium, germanium, and graphite.

Turning to the legislation, H.R. 7662, this bill requires the Secretary of the Interior to regularly report on global critical mineral resources and operations, including foreign government ownership or influence at the individual mine and processing facility level. It also requires input on strategies to develop advanced mining, refining, separation, and processing technologies.

The USGS supports this bill. Much of the information needed for this report is compiled in our mineral commodity summaries, yearbooks, and industry surveys, and could be consolidated and augmented in a new format for this legislation, although in some cases the level of detail required will be difficult to acquire for some mineral markets which are not fully transparent. We will continue to work to improve our ability to access this information. We have a second partnership with DARPA to develop tools to increase critical mineral pricing transparency and improve the timeliness and accuracy of supply and demand forecasts.

Finally, the Administration's most recent budget request added \$5.6 million to improve tracking of global minerals markets and model the economic impact of supply chain disruptions.

H.R. 7807. This bill would establish an intergovernmental task force to assess our dependence on the People's Republic of China and certain other countries for critical minerals. It would bring together multiple levels of government to make policy recommendations and facilitate cooperation on responses to this dependence. We recognize the need to address challenges to critical mineral supply chains. We can support the task force with supply demand and trade analyses, and as co-chair of the NSTC Critical Minerals

Subcommittee, this Subcommittee, as an existing body, could more rapidly stand up collaborative processes and deliver the recommendations called for in the bill than a new entity requiring organization from the ground up.

Thank you for the opportunity to testify, and I will be happy to answer any questions.

[The prepared statement of Dr. Williams follows:]

PREPARED STATEMENT OF DR. COLIN WILLIAMS, MINERAL RESOURCES PROGRAM  
COORDINATOR, U.S. GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR  
ON H.R. 7662 AND H.R. 7807

Chairman Stauber and Ranking Member Ocasio-Cortez, thank you for inviting me here today to discuss legislation pending before the Subcommittee. My name is Colin Williams, and I lead the U.S. Geological Survey's (USGS) Mineral Resources Program.

### **Background**

The USGS is the science arm of the Department of the Interior and provides impartial, actionable science and data on the energy and mineral resources that underpin the Nation's technological innovation, manufacturing industries, trade, national security, and economy. As part of that role, we provide the Nation's official statistics on the domestic and global supply of mineral commodities; map and quantify the Nation's mineral resources; and provide supply chain analyses that inform both policy decisions and Federal and private sector investment. We also co-chair the National Science and Technology Council's (NSTC) interagency Critical Minerals Subcommittee, which was created in 2010 and codified in the Bipartisan Infrastructure Law.

### **The USGS Role in Critical Minerals Security**

Within the Critical Minerals Subcommittee, the USGS role has been to work across federal agencies to provide the data and supply chain analyses to quantify and model criticality, and to maintain a cross-sectoral focus that could identify commodities with potentially competing supply needs across multiple industries. This interagency approach was implemented by the USGS to develop the 2018 list of critical minerals under Executive Order 13817, A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals.

The Energy Act of 2020 further directed the USGS to update both the methodology and the resultant list of critical minerals every three years, beginning with the 2022 list of critical minerals. The Energy Act provided a process for the update that includes interagency consultation and public comment. It defined "critical minerals" as non-fuel minerals essential to the U.S. economy or national security with a supply chain that is vulnerable to disruption and serving an essential function in the manufacturing of a product, the absence of which would have significant consequences for the economic or national security of the United States.

In accordance with the Energy Act of 2020, the 2025 list will include an updated methodology to determine mineral criticality. The methodology will incorporate a data-driven modeling approach to evaluate potential risks to mineral supply chains. The USGS is incorporating supply disruption scenarios into the methodology to better represent possible future risks to supply chains and to estimate the potential effects of such disruptions to U.S. gross domestic product (GDP). For example, recent work completed by the USGS using elements of the updated methodology shows that in the scenario of a complete suspension of gallium and germanium exports from China, the world's largest producer, U.S. GDP could be reduced by \$3.4 billion.

The list of critical minerals is the foundation of work completed by the USGS to support resilient mineral supply chains under Executive Order 14017 (America's Supply Chains) and Executive Order 14123 (White House Council on Supply Chain Resilience). In addition to identifying critical minerals, the research results published with the list identify those critical mineral commodities with the greatest supply chain vulnerability and highlight weak points in supply chains.

The USGS, working with partners both inside and outside of government, has built comprehensive supply chain analysis capabilities to identify domestic and international critical mineral supply chain vulnerabilities from extraction to processing, manufacturing, disposal, and recycling or reprocessing waste.

Through our Earth Mapping Resources Initiative (Earth MRI), we are working with State geological surveys and other partners to collect modern geoscience data across the Nation and develop new maps and assessments of critical mineral resources. We are collaborating with the Defense Advanced Research Projects Agency (DARPA) and the Advanced Research Projects Agency-Energy (ARPA-E) to deploy artificial intelligence and machine learning techniques to accelerate the use of Earth MRI data to map and quantify the Nation's mineral resources. We are also working with Geoscience Australia and the Geological Survey of Canada through the Critical Minerals Mapping Initiative to advance the mineral system science that supports these analyses. We are also developing the first National Mine Waste Inventory to ensure that our understanding of the domestic resource base includes both minerals still in the ground and mineral resources in mine waste and energy waste.

We have expanded our annual Mineral Commodity Summaries to provide additional data on import reliance and on recycling, and we are active in providing technical information and reviews to other Federal agencies in support of funding decisions on proposed grants, loans, and tax code changes focused on critical mineral production and processing, as well as new technologies that could reduce reliance on critical minerals. We have also supported the Administration and Congress with extensive analysis on mineral commodity-related issues, such as those resulting from China's imposition of export controls on antimony, gallium, germanium, and graphite.

We are also partnering to improve the Nation's ability to forecast mineral supply chain disruptions. The USGS and the Energy Information Administration (EIA) have launched a collaboration in which EIA will develop outlooks for specific energy technologies such as electric vehicle batteries, which the USGS may then incorporate into its cross-sectoral supply chain analyses. In turn, the USGS will populate those outlooks with mineral requirements and market information.

#### **H.R. 7662, Critical Minerals Security Act of 2024**

This bill requires the Secretary of the Interior to submit a report to Congress on all global critical mineral and rare earth element resources and associated operations one year after enactment and every two years thereafter. These reports are required to be comprehensive with respect to ownership and activity at the individual mine and processing facility level, particularly with respect to the degree to which these operations are associated with foreign government ownership and/or influence. The bill also requires input on strategies to develop advanced mining, refining, separation, and processing technologies. The USGS supports this bill.

Much of the information needed for this report is already compiled in the USGS Mineral Commodity Summaries, Mineral Yearbooks, and Mineral Industry Surveys, although we note that for some critical mineral commodities the level of detail required for this global resource report will be difficult to acquire for markets which are not fully transparent.

We will continue to work to acquire additional resources to improve our ability to access this information. For example, we are partnering with the Defense Advanced Research Projects Agency (DARPA) to develop tools to increase the transparency of critical mineral pricing and improve the timeliness and accuracy of critical mineral supply and demand forecasts. Also, the President's Budget Request for Fiscal Year 2025 includes an additional \$5.6 million to expand and accelerate our critical minerals supply chain analysis. This increase will improve our ability to track changes in the global minerals markets and model the economic impact of time-critical mineral supply chain disruptions. In addition, USGS is investing in more fully engaging with the U.S. federal statistical system that over time may strengthen confidentiality protections for private sector and public engagement on minerals data.

These improved supply chain analysis capabilities, along with the other key components of the USGS Mineral Resources Program and its partnerships described above, will support a comprehensive, innovative, and strategic approach to developing advanced mining, refining, separation, and processing technologies.

#### **H.R. 7807, Intergovernmental Critical Minerals Task Force Act**

This bill would establish an intergovernmental critical minerals task force to assess the reliance of the United States on the People's Republic of China and other covered countries for critical minerals and the associated national security risks. It intends to bring together the Federal Government, Tribes, and State, local, and territorial governments to make policy recommendations with regard to critical minerals and to facilitate cooperation, coordination, and mutual accountability

among all levels of government on a holistic response to U.S. dependence on covered countries for critical minerals.

The USGS recognizes the need to prioritize and address certain challenges to critical mineral supply chains and appreciates Congressional engagement on this issue. The USGS can support the effort of such an intergovernmental task force with our official statistics and supply chain analyses on the supply, demand, and trade of critical minerals and through our role as co-chair of the NSTC interagency Critical Minerals Subcommittee.

Implementation of the bill may be slower than intended by the bill's authors due to possible procedural requirements under the Federal Advisory Committee Act (FACA). As one possible alternative, this subcommittee might wish to consider directing the existing NSTC Critical Minerals Subcommittee to carry out the work envisioned under this bill. The NSTC Critical Minerals Subcommittee is a standing body authorized by statute, and thus may be in the nimblest position to rapidly stand up collaborative input processes with states, Tribes, local, and territorial governments, and deliver the recommendations called for in the bill.

### **Conclusion**

Thank you again for the opportunity to testify. I will be happy to answer any questions.

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QUESTIONS SUBMITTED FOR THE RECORD TO DR. COLLIN WILLIAMS, PROGRAM COORDINATOR, MINERAL RESOURCES PROGRAM, UNITED STATES GEOLOGICAL SURVEY

**Dr. Williams did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

### **Questions Submitted by Representative Westerman**

*Question 1. Dr. Williams, Section 4 of the Critical Minerals Security Act of 2024 directs the Secretary of the Interior, in consultation with the Secretary of State, to establish a process under which "a United States person seeking to divest in stock from stock in mining or mineral processing operations for critical minerals and rare earth elements in a foreign country may notify the Secretary of the intention of the person to divest such stock," and that the Secretary may then "provide assistance to the person to find a purchaser that is not under the control of the government of a covered nation." Are you aware of any other examples of the Department of the Interior finding buyers for private citizens looking to divest stock?*

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Dr. WITTMAN. Thank you, Dr. Williams. We appreciate your testimony. Our next witness is Ms. Cheryl Lombard. She is the Senior Program Director for Power, Infrastructure, and Minerals at ClearPath Action, and she is stationed here in Washington, DC.

Ms. Lombard, you are now recognized for 5 minutes.

### **STATEMENT OF CHERYL LOMBARD, SENIOR PROGRAM DIRECTOR, POWER, INFRASTRUCTURE, AND MINERALS, CLEARPATH ACTION, WASHINGTON, DC**

Ms. LOMBARD. Thank you. Good afternoon, Chairman Stauber, Congressman Wittman, Ranking Member Ocasio-Cortez, Congressman Huffman, and members of the Subcommittee. Thank you for the opportunity to testify today.

My name is Cheryl Lombard, and I am the Senior Program Director for Power, Infrastructure, and Minerals at ClearPath Action. We are a 501(c)(4) organization that advocates for clean energy, innovation, modernized permitting, and regulatory reform.

The United States will need to double our power capacity over the coming decades to meet the expected energy demand. This will

require substantial infrastructure, energy generation, batteries, transmission systems, and more, all of which rely on critical minerals and materials. The International Energy Agency predicts that the demand for energy-related minerals like lithium, cobalt, graphite, and nickel could grow 20 to 40 times by the year 2040, and today we produce very little of these minerals domestically.

I will focus my testimony on four ways this Committee can work to meet that demand, accelerate American innovation, and reduce global emissions: specifically, (1) the bipartisan Intergovernmental Critical Minerals Task Force Act; (2) the challenges with the status quo of relying on foreign minerals and materials; (3) recommendations to streamline permitting for domestic resources; and finally, (4) strengthening U.S. and allied supply chains for critical minerals and materials.

ClearPath Action supports H.R. 7807, the Intergovernmental Critical Minerals Task Force Act. This task force created by this bill would coordinate efforts across Federal, state, local, tribal, and territorial governments to address vulnerabilities in the U.S. critical supply chains. As Ranking Member Ocasio-Cortez described it, a whole-of-government approach. This Committee has passed multiple mining-related bills, including H.R. 1, all of which point in the same direction: align U.S. domestic and international interests. This bill would be another important piece of that puzzle.

It is worth noting that the Biden administration has promoted numerous actions that have created challenges for domestic mining projects, prolonging lengthy permitting processes and limiting access to domestic resources while favoring those sourced from overseas. From Wyoming and Minnesota to Alaska and Arizona, the Biden administration's actions have made it harder to produce critical minerals and materials, such as copper and zinc, which are essential for electric grid components; nickel and lithium, which are important for battery storage, electric vehicles, and geothermal energy.

In contrast, this bill would create a unified strategic approach. It also includes recycling and reuse, and how it plays an important role in securing these supplies by creating secondary sources. Recycling alone cannot meet demand, but it supplements mining and will help to reduce environmental impacts.

Today, according to the USGS Mineral Commodity Summaries Report of 2024, the United States is fully import-reliant for 15 of the 50 critical minerals, which has already been said today by the Members. Meanwhile, China is the leading producer of most of these. China also controls global refining for 90 percent of the rare earth element supply, and 60 to 70 percent of the global lithium and cobalt supply.

Meanwhile, the United States struggles to permit domestic projects. Data shows regulatory approvals for mines has fallen to the lowest level in decades. We must do better to keep up with demand growth. Federal permitting must shift to expedite approvals for projects to deliver net benefits and meet legal standards for environmental laws, including clean air and clean water.

We need all regulatory certainty from one presidential administration to the next. This is especially true for critical minerals and materials projects due to their long development timelines. Legal

decisions such as the Rosemont decision have further complicated efforts in recent years. The House passed the Mining Regulatory Clarity Act of 2024 by a bipartisan vote to fix this issue once and for all. Now we can do much more with this bill.

Achieving mineral and material security for the United States requires both time and strategic international collaboration. The task force created in this bill will strengthen international partnerships, domestic capabilities, and supply chains while protecting U.S. national security and economic development. This legislation also creates jobs and drives innovation in critical minerals by streamlining the regulatory processes and enhancing coordination across government and industry.

I want to thank you once again for this opportunity to testify, and we look forward to working with this Committee and others to further American critical minerals and materials independence. Thank you.

[The prepared statement of Ms. Lombard follows:]

PREPARED STATEMENT OF CHERYL LOMBARD, SENIOR PROGRAM DIRECTOR—POWER, INFRASTRUCTURE, AND MINERALS, CLEARPATH ACTION

ON H.R. 7807

Good afternoon, Chairman Stauber, Ranking Member Ocasio-Cortez and members of the Subcommittee. My name is Cheryl Lombard, and I am the Senior Program Director for Power, Infrastructure and Minerals of ClearPath Action, a 501(c)(4) organization that advocates for more clean energy innovation, modernized permitting and regulatory reform, America's global competitiveness for manufacturing, and unlocking more American resources. To further that mission, we develop cutting-edge policy solutions on clean energy and clean manufacturing innovation. ClearPath Action collaborates with public and private sector stakeholders to enable private-sector deployment of critical technologies, and receives no industry funding.

Thank you for the opportunity to testify today. America's energy demands are rapidly increasing. Some estimates show the U.S. will need to double the capacity of our bulk power system over the coming decades to meet expected energy demand. Expanding this capacity requires substantial infrastructure—batteries, transmission systems and more—all of which rely on critical minerals. Consequently, the International Energy Agency (IEA) predicts that demand for energy-related minerals like lithium, cobalt, graphite and nickel could grow 20 to 40 times by 2040.<sup>1</sup>

As global demand for critical minerals and materials increases, the U.S. will either responsibly develop these resources here at home or continue to rely on foreign sources that, in many cases, pose human rights challenges, present national security risks, and result in increased environmental impacts.

My testimony will focus on four key themes for how Congress and this Committee can work to meet that demand with American supply and capitalize on these efforts to accelerate American innovation and domestic resources to reduce global emissions. Specifically, I will focus on:

- The Intergovernmental Critical Minerals Task Force Act which includes coordination across federal, state and local agencies as well as minerals recycling and reuse;
- The challenges with maintaining the status quo of U.S. reliance on foreign critical minerals and associated national security risks;
- Strategic recommendations to streamline permitting for domestic resources; and
- Strengthening U.S. and allied supply chains for critical minerals to reduce reliance on foreign adversaries.

H.R. 7807, the Intergovernmental Critical Minerals Task Force Act, is a step toward achieving these goals. ClearPath Action supports this legislation because it

<sup>1</sup> <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary>

creates a coordinated strategy to secure critical mineral supplies domestically, reducing reliance on foreign sources and enhancing U.S. economic and national security.

H.R. 7807 is the latest example of how this Committee has highlighted the importance of leveraging domestic mineral resources throughout the 118th Congress. Earlier this Congress, this Committee prioritized permitting reform by advancing the H.R. 1, The Lower Energy Costs Act. Parts of this bill were later codified by securing key provisions in the debt ceiling agreement enacted through the Fiscal Responsibility Act. This Committee has passed numerous mining—related bills, including H.R. 2925, the Mining Regulatory Clarity Act of 2024, which would remedy the negative impacts of the *Rosemont* decision. All of these actions point in the same direction: to align U.S. domestic and international interests to meet our critical mineral needs.

Today, America is dependent on foreign supply chains. According to the 2024 U.S. Geological Survey's Mineral Commodities Summary, the U.S. was 100 percent net import-reliant for 15 of the 50 individually listed critical minerals and was more than 50 percent net import-reliant for an additional 26 critical mineral commodities. Meanwhile, China was the leading producing nation for 28 of those same 50 critical minerals.<sup>2</sup> The Aspen Institute's report on "A Critical Minerals Policy for the United States" further underscored that rising demand for minerals will place significant stress on global supply chains and undermine the ability of the U.S. to deploy more clean energy.<sup>3</sup> Equally concerning, China exerts dominant control over the refining process for a large majority of rare earth elements and has demonstrated a willingness to leverage its influence to pursue political objectives.<sup>4</sup>

Despite these dynamics, the U.S. struggles to permit projects that unlock these critical minerals and materials. Recent data from Goldman Sachs shows regulatory approvals for mines have fallen to the lowest level in a decade, coinciding with substantial demand growth for sectors that require them to obtain inputs, like transportation, technology, military equipment and machinery, and energy.<sup>5</sup>

Recognizing the challenges posed by limited domestic production capacity, the Committee has shown its dedication to enhancing America's ability to utilize domestic resources to be globally competitive. As policymakers work to fortify U.S. supply chains, reduce reliance on foreign critical minerals, and promote economic growth, Congress should consider solutions that restore predictability and encourage private sector investment across the critical minerals supply chain.

### **The Intergovernmental Critical Minerals Task Force**

The Biden Administration has proposed numerous actions that have created new challenges for domestic mining projects, prolonging already lengthy permitting processes, and limiting access to domestic resources while favoring those sourced from overseas. Actions such as the proposed withdrawal of 10 million acres in Wyoming and the cancellation of mining leases in Minnesota, home to uranium, helium, titanium, nickel, copper, zinc, rare earth elements and other precious metals<sup>6</sup> increase U.S. reliance on foreign sources of critical minerals, often from countries with lower environmental and labor standards. Additional measures, including the suspension of the Ambler Road project in Alaska<sup>7</sup> and the designation of mineral-rich areas in Arizona<sup>8</sup> as protected lands, may further impact domestic supply of copper, lead, silver, gold, uranium, and molybdenum, and zinc.

In accordance with a Biden Administration Executive Order, the Department of Interior's Interagency Working Group (IWG) released a report in September 2023 with 65 recommendations to improve mining on public lands, including transitioning to a leasing system and imposing royalties on extracted minerals.<sup>9</sup> However, industry leaders such as the National Mining Association (NMA), criticized these recommendations as unreasonable and unworkable, arguing they could hinder domestic mining projects and investment.<sup>10</sup>

In contrast, the Intergovernmental Critical Minerals Task Force, as proposed in H.R. 7807, would create a unified, strategic approach to securing the U.S. supply

<sup>2</sup> <https://pubs.usgs.gov/publication/mcs2024>

<sup>3</sup> <https://www.aspeninstitute.org/wp-content/uploads/2023/06/Critical-Minerals-Report.pdf>

<sup>4</sup> <https://chinapower.csis.org/china-rare-earths/>

<sup>5</sup> <https://www.goldmansachs.com/insights/goldman-sachs-research/copper-is-the-new-oil>

<sup>6</sup> <https://www.wsgs.wyo.gov/products/wsgs-2022-critical%20minerals-summary.pdf>

<sup>7</sup> <https://www.ambleraaccess.org/About/Benefits>

<sup>8</sup> <https://www.usgs.gov/centers/national-minerals-information-center/mineral-industry-arizona#:~:text=Arizona%20leads%20in%20copper%20production,gypsum%2C%20lime%2C%20and%20salt.>

<sup>9</sup> <https://www.doi.gov/sites/default/files/mriwg-report-final-508.pdf>

<sup>10</sup> IWG Recommendations on Mining Unworkable and Unreasonable

of critical minerals. The Task Force would be a crucial counterbalance to the Biden Administration’s proposals, leveraging bilateral expertise to strengthen U.S. capabilities, securing a stable domestic supply chain, reducing dependency on adversaries, and improving American energy and manufacturing capacity.

These minerals play a foundational role in American manufacturing, technologies to boost grid reliability, military equipment, energy infrastructure, and other technologies that underpin the U.S. economy and defense systems. The Task Force would coordinate efforts across federal, state, local, Tribal, and territorial governments to address vulnerabilities in the U.S. critical mineral supply chains. Leveraging expertise and resources at every level of government, the Task Force would strengthen domestic mining, processing, refinement, and recycling capabilities, creating new pathways for high-quality American jobs and reducing reliance on foreign adversaries like China.

The Task Force would serve as a central hub for data sharing and supply chain transparency, fostering a collaborative framework to identify and mitigate security risks proactively. This transparency improves decision-making across agencies, equipping the U.S. to assess current supply chain risks and respond swiftly to potential supply disruptions.

The Task Force’s mandate extends beyond immediate security concerns to establish a foundation for long-term growth within the critical minerals sector. Identifying responsible domestic opportunities for mining, processing, and recycling will produce a self-sustaining supply chain that balances economic and environmental priorities. The Task Force’s establishment reflects a strategic commitment to America’s economic future, national security, and environmental stewardship, protecting U.S. technological leadership and industrial capacity for decades to come.

### **U.S. Reliance on Foreign Critical Minerals and Associated National Security Risks**

The United States’ reliance on foreign sources for critical minerals poses significant national security risks as demand for these minerals skyrockets. With the global shift toward clean energy technologies, critical minerals like lithium, cobalt, graphite, and nickel have become essential. ClearPath Action maintains that an “all of the above” approach—encompassing domestic exploration, extraction, processing, and recycling—is essential to bolster U.S. supply chains. Without a comprehensive approach, the U.S. will remain dependent on adversarial nations, like China with its stronghold on mineral processing and supply chains, leaving the U.S. vulnerable to political and economic coercion.

Exploration and accreditation of critical mineral resources within U.S. borders form the foundation of a secure supply chain. Investment in modern exploration techniques and streamlining accreditation processes can identify viable deposits faster and with greater efficiency, minimizing permitting delays and helping meet projected demand. However, the U.S. must also prioritize extraction capabilities to convert these identified resources into viable supplies. Increasing domestic mining capacity is crucial, as foreign adversaries currently control much of the supply chain, particularly in processing and refining.<sup>11</sup>

Processing remains a major bottleneck, as China controls global refining for 90% of global rare earth element supply and 60–70% of global lithium and cobalt supply.<sup>12</sup> Establishing U.S.-based processing facilities will reduce the need to send raw materials abroad, allowing the U.S. to add value domestically and create a more resilient supply chain.

Recycling must also play a critical role in securing critical mineral supplies by creating secondary sources. While recycling alone cannot meet projected demand, it is a supplement to primary extraction and helps to reduce environmental impacts. Metals such as aluminum, nickel, and copper already have recycling rates exceeding 40%.<sup>13</sup> As materials cycle through the system and recycling technology advances, secondary sources can partially close the supply gap, easing dependence on foreign adversaries and creating a more efficient supply chain.

<sup>11</sup> <https://kleinmanenergy.upenn.edu/research/publications/the-not-so-rare-earth-elements-a-question-of-supply-and-demand/>

<sup>12</sup> <https://www.iea.org/reports/energy-technology-perspectives-2023/clean-energy-supply-chains-vulnerabilities>

<sup>13</sup> <https://www.energymonitor.ai/tech/why-recycling-is-no-golden-ticket-to-endless-critical-minerals/>



### **Strategic Recommendations to Streamline Permitting for Domestic Resources**

Last September, the Biden Administration proposed designating the critical minerals supply chain as a covered sector under FAST-41, which provides expedited coordination and oversight procedures for infrastructure projects being reviewed by federal agencies to increase accountability through consultation and reporting on projects. This exemption could artificially restrict the types of projects eligible to apply to FAST-41.<sup>14</sup> To date, the South32 Hermosa project is the only recipient of FAST-41 status. While this action by the Federal Permitting Improvement Steering Council (FPISC) aims to bring much-needed efficiency and predictability to the lengthy timelines for critical mineral extraction, processing, and recycling, it is clear that it alone is an insufficient process to remedy the scale and scope of the challenges. H.R. 7807 is well-positioned to build upon these efforts.

As demand for these minerals surges, the Intergovernmental Critical Minerals Task Force could play a crucial role implementing all of the FAST-41 improvements. With its intergovernmental focus, the Task Force can bridge coordination gaps across federal, state, local, and Tribal jurisdictions. It would provide a platform for aligning priorities, sharing information, and streamlining communication which are key elements in permitting bottleneck reduction. These coordinated efforts would enhance the FAST-41 benefits that may not fully reach local jurisdictions or align with state goals, creating inconsistencies that could diminish the initiative's impact.

Regulatory delays, sometimes stretching nearly a decade, drive up project costs and stall high-impact initiatives that offer substantial benefits to the U.S., including reduced energy costs, greater energy independence, expanded economic opportunity, and lower global emissions. The current permitting system overwhelmingly favors those who delay or block projects rather than those working to build.

Federal permitting must shift to expedite approvals for projects that deliver net benefits and meet legal standards for clean air and water. Developers also need stable regulatory certainty from one administration to the next. This is especially for critical mineral projects. Legal decisions, such as the 9th Circuit's ruling in *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, also known as the "Rosemont decision," have further complicated domestic mining efforts. This shift from a long-running administrative policy has created a new barrier that has stifled domestic production and slowed federal investment in reshoring supply chains. House Republicans highlighted the urgency of reform in H.R. 1 which has gained bipartisan support in the Senate as well. Addressing this regulatory flux is essential to giving entrepreneurs the confidence to proceed responsibly with domestic operations.

### **Strengthening U.S. and Allied Supply Chains for Critical Minerals to Reduce Reliance on Foreign Adversaries**

Achieving mineral security requires both time and strategic international collaboration. The Task Force will advance efforts with key partners and allies. Diversifying supply sources strengthens domestic capabilities and builds resilient supply chains that protect U.S. national security and economic stability.

While the Biden Administration has convened a "Minerals Security Partnership," and other regional dialogs with key nations in an attempt to address such challenges, these informal diplomatic arrangements lack direction, durability, and transparency without Congressional guidance and accountability. A key aim of H.R. 7807 is to do exactly that: coordinate across government to ensure negotiations translate into actions that empower the private sector to innovate and lead in this sector with ethical, market-based solutions.

The U.S. and its partners must expand mining, processing, and recycling capabilities, building job growth and addressing labor shortages across borders. As over half of the U.S. mining workforce approaches retirement, creating a shortfall of 221,000 skilled workers, other countries like Canada and Australia face similar challenges, with severe talent shortages expected in their mining sectors.<sup>15</sup> These international shortages highlight the need for a coordinated effort to secure skilled talent for the mineral supply chain. The Intergovernmental Task Force can advance solutions by collaborating with these allied nations to establish international training and exchange programs. These initiatives would foster talent development, share best

<sup>14</sup> <https://www.permits.performance.gov/fpisc-content/permitting-council-moves-designate-critical-minerals-supply-chain-fast-41-sector>

<sup>15</sup> <https://www.csis.org/analysis/united-states-needs-more-mining-engineers-solve-its-critical-mineral-challenges>

practices, and strengthen the entire critical mineral supply chain, positioning allies to compete globally while securing resources domestically.

Expanding bilateral and multilateral frameworks in a coordinated manner with Congressional engagement should be a pillar to supporting the diversification of critical mineral supply chains. Trade agreements with countries that meet U.S. standards can reinforce supply security. However, these agreements must complement, not replace, robust domestic production efforts.

### **Conclusion**

The Intergovernmental Critical Minerals Task Force Act is essential for securing a stable domestic supply chain, reducing reliance on foreign adversaries, and supporting U.S. economic and energy security. This legislation can create jobs and drive innovation in critical minerals by streamlining regulatory processes and enhancing coordination across government and industry. Thank you again for the opportunity to testify today. ClearPath Action looks forward to working with this Committee to further all American critical mineral and material independence. We urge Congress to advance this initiative for a more resilient and independent U.S. supply chain.

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QUESTIONS SUBMITTED FOR THE RECORD TO MS. CHERYL LOMBARD, SENIOR  
PROGRAM DIRECTOR—POWER, INFRASTRUCTURE, AND MINERALS, CLEARPATH ACTION

**Ms. Lombard did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

### **Questions Submitted by Representative Westerman**

*Question 1. Ms. Lombard, last Thursday, the House passed H.R. 8446, the Critical Minerals Consistency Act, with overwhelming bipartisan support. H.R. 8446 adds the Department of Energy's definition of "critical material" to the Department of the Interior's definition of "critical mineral." Ms. Lombard, how do you think including "critical materials" to H.R. 7807 as well would aid this newly established Task Force in its efforts to offer solutions that diminish American dependence on adversarial nations for our mineral security?*

*Question 2. Ms. Lombard, Section 3 of H.R. 7807 requires the task force Chair to appoint representatives "with expertise in critical mineral supply chains" from at least 20 different Federal agencies. Why is it so important for the Task Force to collaborate across so many different jurisdictions?*

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Dr. WITTMAN. Thank you so much, Ms. Lombard. Our next witness is Mr. Jonathon Travis. He is the Principal for Severance Tax at Ryan, LLC, and he is based in Houston, Texas.

Mr. Travis, you are now recognized for 5 minutes.

### **STATEMENT OF JONATHON TRAVIS, PRINCIPAL, SEVERANCE TAX, RYAN, LLC, HOUSTON, TEXAS**

Mr. TRAVIS. Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the Subcommittee, I appreciate the opportunity to testify in support of Congresswoman Hageman's bill today, the Expedited Appeals Review Act.

This is an important bill. It does right by all parties involved in the use of Federal lands and waters, and it does that by upholding one of our country's core legal beliefs, that justice delayed is justice denied.

My name is Jonathon Travis, and I am a principal in the severance tax and royalty practice at Ryan, LLC. Ryan's goal is to ensure that taxpayers pay timely, accurately, and exactly what is owed. Not a penny more and not a penny less. At Ryan, one of our

roles is assisting oil and gas producers with calculating the amount of Federal royalties owed.

Given the complex operations and lengthy regulations, disputes can sometimes arise which forces royalty payers into the appeals process at the Interior Board of Land Appeals, also known as the IBLA for short. Unfortunately, this process is lengthy, costly, and poorly defined. Two key statistics help highlight that these comments aren't hyperbole. There are currently over 600 appeals before the IBLA, many of which have been pending for more than 5 years. In 2023, the IBLA decided just 36 cases on the merits, 2 of which were in favor of the appealing party, with 34 in favor of the government. That is simply not justice.

In the appeals we have been involved in, we have identified two main issues.

First, the department has often produced heavily curated administrative records, many of which have been ruled by the IBLA to have been compiled by the department in bad faith. Despite these findings of bad faith, the IBLA has still been unable or unwilling to rule on the merits of the cases, leaving the appellant stuck in the IBLA waiting process.

The administrative record is supposed to include all of the documents that were compiled and presented to the deciding agency official during the consideration of the matter being appealed. Unfortunately, this is the exact opposite of what we have seen happen. Instead, we have seen the Office of Natural Resources Revenue, or ONRR as they prefer to be called, officials knowingly making decisions before gathering the necessary information. We have also seen ONRR agency personnel purposefully deleting and excluding documents that could inform the director's decision.

Moreover, once the appeals reach the IBLA, ONRR frequently took over a year to produce the administrative record, the very same administrative record that should have already existed before the director issued their decision. The flaw in this process is simple: How could the director have considered an administrative record in making their decision, when that administrative record had not even been compiled yet?

Unfortunately, IBLA's process promotes this behavior by discouraging appellants from supplementing the administrative record and also making discovery incredibly rare. Consequently, the agencies alone have control over the documents that will inform an IBLA decision. And as we have seen, this allows for the exclusion of documents that challenge or refute the agency's desired outcome.

The second issue is the IBLA's inability to rule on the merits of a case. On most matters, the IBLA has an indefinite amount of time to sit on a case before making a ruling. In fact, there are currently pending cases before the IBLA that date back to 2014. Unique to royalty appeals and ONRR is a 33-month period in which a decision must be issued by the IBLA. Once that almost 3-year period expires, the department or agency automatically wins if the issue is worth more than \$10,000, which, as you can imagine, they pretty much all are. The appellant can only then go onward to district court, and the administrative record is now set, despite the IBLA often having not ruled on the matter at all.

Further, the agency is also given deference, again, despite the IBLA having not made a ruling. And, unfortunately, this automatic loss in the IBLA process due to the 33-month period expiring is the most common result for royalty cases, even ones that have been fully briefed. This leaves appellants in judicial purgatory because there aren't any mechanisms to encourage or receive timely resolution.

The Expedited Appeals Review Act provides a crucial path forward, allowing these appeals to finally advance. First, this bill creates a tighter timeline for the IBLA to consider cases. Second, the bill makes sure that a final decision will be issued by an impartial arbiter, whether it be the IBLA in normal course, but on a tighter deadline, or by a district court and now allowing for fair consideration of all arguments and the opportunity to have a complete record.

And while my focus has been on Federal royalty appeals, this bill will benefit virtually all users of Federal lands and waters, especially folks with grazing rights, renewable right-of-ways, or even recreational use, all needing access to a more timely decision. I don't think the current process meets anyone's reasonable view of justice, because everyone should have the right to a fair and timely decision through the legal process. For those reasons, I commend the introduction of this legislation and urge its passage.

Thank you very much for the opportunity to testify, and I would be happy to answer any questions.

[The prepared statement of Mr. Travis follows:]

PREPARED STATEMENT OF JONATHON TRAVIS, PRINCIPAL,  
SEVERANCE TAX/ROYALTY RYAN, LLC

ON H.R. 10005

#### **Introduction:**

Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the subcommittee:

Thank you for the opportunity to testify in support of H.R. 10005, the Expedited Appeals Review Act (Act). The Act is a positive piece of legislation that benefits all stakeholders utilizing federal lands and waters. I commend Rep. Hageman for introducing this legislation and I thank the Committee for taking up this important matter this session. I sincerely hope that it will move forward through the legislative process.

My name is Jonathon Travis, and I am a principal for the severance tax and royalty practice at Ryan, LLC. Ryan is the world's largest firm dedicated to providing tax consulting services. With headquarters in Dallas, Texas, we perform tax services in every state and in nearly 70 countries. From the calculation of property taxes at the local level to assisting taxpayers in obtaining historical tax credits, Ryan provides a wide array of tax services and interacts with various taxing authorities daily. We help our clients get to fair answers faster, which benefits both the taxpayer and the taxing authority. And perhaps more specifically, our job is to ensure our clients pay only the tax they owe—not a penny more, and not a penny less.

Our severance tax and royalty practice, based in Houston, Texas, focuses exclusively on calculating taxes or royalties owed to the government for the production of oil and gas. From the Bakken to the deepest waters of the Gulf, Ryan's wide array of oil and gas clients account for the majority of production throughout the United States. This provides us with a unique perspective on identifying best practices for the collection of taxes and royalties and firsthand experience with the issues the Act aims to govern.

It is with this perspective that I approach my testimony on the Expedited Appeals Review Act. This important piece of legislation will allow for efficiency in the processing of appeals pending before the Department of the Interior by giving appellants a mechanism to ensure their issues are heard on the merits, with a full record and

through a truly independent appeals process—the absence of this mechanism today hampers the efficient collection of taxes and royalties.

I'll quickly explain the current process and proposed changes so you can see why this legislation is so critical to appellants.

#### **Overview of the Interior Board of Land Appeals:**

The Interior Board of Land Appeals (IBLA) is an administrative court within the Department of the Interior's Office of Hearing and Appeals. The IBLA oversees appeals of agency actions, including those from the Bureau of Land Management, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement, Office of Natural Resources Revenue, and Office of Surface Mining Reclamation and Enforcement.<sup>1</sup> The mission of the IBLA is “to provide an impartial forum within the Department of the Interior for the fair resolution of disputes involving public lands and natural resources under the Department's jurisdiction.”<sup>2</sup> The IBLA is not statutorily defined; rather, the entire court is regulatorily constructed.

Organizationally, the IBLA is headed by a chief judge, with a varying number of supporting administrative judges. Currently, there are eight judges in total, three of whom were appointed in the last seven months.<sup>3</sup> There is no set minimum or maximum to the number of judges that may serve on the IBLA, nor are the lengths of service defined.<sup>4</sup>

Annually, the IBLA receives an average of 290 appeals.<sup>5</sup> The majority of these appeals pertain to Bureau of Land Management matters (64% in 2023). On average, the IBLA resolves 270 appeals per year. However, this apparent level of processing is misleading. Per the IBLA, 80% of the cases resolved are resolved on jurisdictional or procedural grounds (such as untimely appeals filed or a failure to state the grounds of the appeal). For those cases decided on the actual merits, of which there were only 34 in FY 2023, only 2 were decided in favor of the appellant. That is a 94% loss rate.

As of the end of October, there were over 600 pending appeals before the IBLA—with the oldest dating back to 2014. The statuses of these cases vary. While some are suspended, meaning the parties are attempting to settle the case, many of the oldest cases are “awaiting action.” These 229 cases are the most concerning, as it means the parties have completed briefing on the issues, but the IBLA has yet to assign a staff attorney or administrative judge to the case. The “awaiting action” backlog dates to 2018.

These statistics demonstrate that the number of unresolved cases will continue to grow annually.

#### **Practice Problems Before the Interior Board of Land Appeals:**

In addition to the ever-growing backlog, further issues stem from the actual practice before the IBLA, most notably with the presentation of the administrative record.

The administrative record is comprised of the documents that were “compiled during the officer's consideration of the matter leading to the decision being appealed.”<sup>6</sup> It is the fundamental justification for how the agency arrived at its determination. The IBLA views this record as the factual basis for which they will decide the case, and while “parties may supplement the record to correct an inadvertent omission,” such supplementation is not permitted when “the agency did not consider [the supplemented information] when it made the decision on appeal.”<sup>7</sup> That said, the IBLA may “accept newly submitted information and, to the extent it is deemed reliable and relevant,” “consider that information during the [IBLA's] review of the appeal.”<sup>8</sup>

<sup>1</sup> 43 C.F.R. § 4.1(b)(2).

<sup>2</sup> U.S. Dep't of the Interior, Annual Report of the Interior Board of Land Appeals Fiscal Year 2023, at 3, available at: <https://www.doi.gov/media/document/ibla-annual-report-fy23>.

<sup>3</sup> See About the Interior Board of Land Appeals, U.S. Dep't of the Interior, Nov. 7, 2024, <https://www.doi.gov/oha/about-interior-board-land-appeals>.

<sup>4</sup> See 43 C.F.R. § 4.2.

<sup>5</sup> U.S. Dep't of the Interior, Annual Report of the Interior Board of Land Appeals Fiscal Year 2023, at 6, available at: <https://www.doi.gov/media/document/ibla-annual-report-fy23>.

<sup>6</sup> 43 C.F.R. § 4.411(d)(3).

<sup>7</sup> U.S. Dep't of the Interior, Interior Board of Land Appeals: Procedures and Practice Manual, at 4, available at: <https://www.doi.gov/sites/doi.gov/files/ibla-procedures-and-practices-manual-apr-2023.pdf>.

<sup>8</sup> *Id.*

Thus, the IBLA's approach to the administrative record assumes the following decision-making process occurred:

1. The agency requests all relevant information from the party seeking a decision.
2. The agency reviews all relevant statutes and regulations on the matter.
3. The agency considers this body of information and then arrives at the decision.

This approach may, at first glance, appear appropriate. However, there are two fundamental flaws with the IBLA's dependence on the agency-curated administrative record. First, these records are solely within the control of the agency; the agency determines what information is included and excluded. Second, even if the record has been properly compiled, much of it will be withheld from the appellant for "deliberative process" purposes.

At Ryan, we have seen firsthand the consequence of these flaws: post-hoc rationalization of decisions, and incomplete administrative records. Agencies within the Department of Interior—contrary to the IBLA's regulations—are compiling administrative records after an officer's consideration of an appealed matter and excising otherwise exculpatory documents from the record.

And yes, we have examples. We have obtained records demonstrating that senior agency officials at the Office of Natural Resources Revenue directed employees to force royalty payors into the appeals process rather than obtain relevant information prior to a decision being made. Echoing these emails, senior auditors directed staff to "delete emails" and to avoid filing relevant documentation into the administrative record. Moreover, once an appeal is underway before the IBLA, we have found thousands of pages of records where evidence refuting the agency's predetermined outcome was intentionally removed from the record. These actions demonstrate how the agencies are undermining the impartiality of the IBLA by providing only records that support their decisions.

And while we've certainly seen ONRR's current Director take steps to address this type of improper behavior going forward, which I commend, the fact remains that the appeals process itself is structurally and procedurally flawed, making the cost of such bad acts more severe than is reasonable, both in legal fees and in lost time.

#### **Unique Issues with Federal Royalty Matters:**

Given the backlog, numerous administrative record issues, and the complexity of federal royalty valuation arguments, properly addressing federal royalty cases frequently requires more resources from the appellant and the IBLA. Put simply, federal royalty cases are challenging. However, unlike other matters that come before the IBLA, federal royalty appeals have a provision that uniquely benefits the Office of Natural Resources Revenue.

Under the Royalty Simplification and Fairness Act of 1996, Congress imposed a 33-month period on the consideration of royalty appeals. Once this period expires, the appealed decision is deemed final and found in the Agency's favor if the underlying amount of the appeal is greater than or equal to \$10,000.<sup>9</sup> While this allows the appellant an opportunity to seek judicial review, the standard of review for the decision is not *de novo*; rather, the standard for overturning this deemed decision is whether the agency's decision was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."<sup>10</sup> Moreover, the administrative record is set once it arrives at the District Court, full of the problematic omissions I discuss above and with few opportunities to supplement the record. In 2023 and 2024, the IBLA has lost jurisdiction due to the expiration of the 33-month period in seven cases, whereas zero federal royalty cases have been decided on the merits during that time period.

In matters that we have witnessed before the IBLA, this appeals process has permitted the Office of Natural Resources Revenue to continue into the District Court with faulty administrative records. Indeed, when Ryan presented the IBLA judges with evidence of ONRR curating the administrative record, the IBLA found that the Office of Natural Resources Revenue acted in bad faith and with bias in the compilation of the administrative record. Similarly, the IBLA has chastised the agency

<sup>9</sup> 30 U.S.C. § 1724(h).

<sup>10</sup> 5 U.S.C. § 706(2).

for failing to provide the administrative record. Here is a short excerpt from that decision:

ONRR[] . . . must also address why the Board should not summarily set aside the decision for violating ONRR's regulation at 30 C.F.R. § 1290.105(f), which states that '[t]he ONRR Director will review the record and render a decision in the case.' Without the record the Director purportedly reviewed, the Board has no basis to confirm that the regulation has been followed. If we cannot confirm that the ONRR Director 'review[ed] the record,' as required by ONRR's regulation, then the Director's decision must be set aside.'<sup>11</sup>

Despite these findings by the IBLA, ONRR exploits the existing backlog of cases to receive de facto "wins" at the IBLA simply as a result of the IBLA not ruling on the merits of the matters under appeal. To add insult to injury, this mode of loss also serves to ensure that the agency's delayed and faulty decision will be given deference in the District Court.

Thus, after waiting nearly three years for a decision, appellants are then faced with an often insurmountable hurdle when appealing royalty cases to the IBLA. The existing process stacks the deck against appellants and unreasonably delays justice for all parties.

#### **The Effect of the Expedited Appeals Review Act:**

While the Expedited Appeals Review Act would not resolve ALL the issues I have outlined, at its heart the bill aims to restore fairness to the IBLA process by addressing the timeliness and evidence issues plaguing the IBLA and those it governs. No longer will appellants be forced to endure an indefinite process before the IBLA, in which the appellants must confront an administrative record that has been curated to support the agency's underlying decision.

First, the Act allows for the imposition of a timeline on how long the IBLA has to decide a matter. At a minimum, the Act allows the IBLA 18 months to decide a matter. Notably, this does not mandate every appellant exercise this right—if an appellant would prefer to pursue the regular IBLA process or to attempt settlement with the agency, it is within their discretion. If an appellant does exercise their right to expedited review, then it triggers a six-month clock for the IBLA to make a determination. There is no time limit for an appellant to file the notice for expedited review; an appellant may file the notice on day one or on the 60th month. Thus, by extending this right to the appellant, it may better allow for the IBLA to prioritize those 221 cases that are "awaiting action."

Second, the bill better ensures that the final decision will be issued by a neutral arbiter. As previously noted, the IBLA prides itself on its impartiality. If it is able to make a substantive determination within six-months, then the appeal to the District Court would proceed as it currently does: with deference attaching to the agency decision and with the appellant having limited opportunities to correct the record at the District Court. Failing this, however, the Act sets up an opportunity for impartiality at the District Court level. If the IBLA does not make a decision within six months, while the pending decision is still deemed to be ruled in the agency's favor, deference does not attach to this decision, allowing the District Court that oversees the appeal to review the matter "*de novo*." This better ensures fairness and a complete record. It gives an appellant the opportunity to supplement the administrative record, and to ensure its arguments are heard at the same level as the department's.

The Act will improve certainty and fairness to a process that currently lacks those attributes for various interests, including renewable energy, oil and gas, grazing, recreation and, yes, environmental sectors. Justice delayed is justice denied, and this bill makes significant strides toward timely justice and greater government efficiency for all parties.

#### **Conclusion:**

Thank you for hearing this testimony on why the Expedited Appeals Review Act is much-needed for the appeals process before the IBLA. This Act will ensure timely resolution of appeals of agency actions for every industry with interests attached to federal lands and waters.

Ryan commends the introduction of this legislation and supports its passage and consideration this session.

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<sup>11</sup> Record on file.

Dr. WITTMAN. Thank you, Mr. Travis, for your testimony. Our next witness is Mr. Derf Johnson. He is the Deputy Director of the Montana Environmental Information Center, and he is based out of Helena, Montana.

Mr. Johnson, you are now recognized for 5 minutes.

**STATEMENT OF DERF JOHNSON, DEPUTY DIRECTOR,  
MONTANA ENVIRONMENTAL INFORMATION CENTER,  
HELENA, MONTANA**

Mr. JOHNSON. Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the Subcommittee, my name is Derf Johnson. I am the Deputy Director of the Montana Environmental Information Center.

I am going to split my comments, and first address the Crow Revenue Act and second provide some general comments on the two critical mineral bills.

The Crow Revenue Act would allow for a coal mine to evade environmental review, privatize close to 1,000 acres of public lands in the Bull Mountains. As written, it will not benefit the Crow Tribe, as the revenue agreement applies to coal that will not be developed. Even if the bill were to be amended, it still would likely not address our concerns. And if the mine were to proceed, it would further devastate water resources in the Bull Mountains, a semi-arid central Montana range dependent upon cattle ranching.

As the Ranking Member alluded to, Signal Peak is a bad actor that recently pled guilty to lying to mine safety regulators about violations of worker and environmental standards, and is presently on criminal probation at the Department of Justice. That is the big picture.

This bill would be an end run around the NEPA process. The expansion in question would dramatically increase the permitted reserves of this mine. And if that coal were to be mined and burned, it would be 375 million tons of carbon, which is approximately 8 percent of the United States' annual emissions.

As part of the land transfer agreement, close to 1,000 acres of public lands in the Bull Mountains would be privatized. This is in the heart of elk country, some of the best elk hunting in Montana. And because this range is largely private, the public lands are critical for that access, and that is why the Montana Wildlife Federation opposes this legislation.

The bill does contain a revenue sharing agreement, where the Hope family would share in revenue derived from the potential development of lands located on the Crow Reservation. This coal is unlikely to be mined. It is not located next to any mining. It is not located next to any infrastructure. If the revenue agreement were to be amended so that it applied to the coal near the Signal Peak mine, it wouldn't resolve our concerns because, as written, it doesn't require good faith negotiations, and the agreement is not conditioned upon the legislation's passage.

The dominant land use in the Bull Mountains is ranching, and water is absolutely critical for this process. The mining that has occurred in the Bull Mountains has repeatedly caused subsidence, which de-waters springs and wells for the ranchers in the area, and Signal Peak has not willingly or been able to replace the water



resources for those individuals. Based on these concerns, the misnamed Crow Revenue Act should be rejected.

For critical minerals, these two bills have merit, quite a bit of merit, such as bolstering clean energy and avoiding countries with poor human rights track records. However, in considering this legislation, we must be careful to assure that mining is conducted so that it fully considers and mitigates environmental and human rights issues, and that we not simply focus on mining, but the full range of opportunities including reuse, repurpose, recycling, and unconventional feedstocks.

If the goal is more U.S. mining, then it must be accompanied with reform. Rare earth mining is more toxic, it is often radioactive, so incorporating community concerns is absolutely paramount. Currently, public lands mining decisions in the United States are driven by the General Mining Act of 1872, a 152-year-old law. It doesn't take into account environmental and community concerns at the initial outset. A prime example of this is the potential Sheep Creek mine at the headwaters of Montana's Bitterroot. There has been extreme community outcry over the clean water impacts and other impacts that that mine may pose.

Another point, we need to close the gap in corporate due diligence requirements, and this bill could help us get there. Failure to align our standards with the EU's, for example, will close off markets to our products, rendering mining and clean energy manufacturing less competitive. Due diligence de-risks mining supply chains, simultaneously removing entities of concern from supply chains and providing a premium for responsible mining.

Finally, we need to focus on alternatives. Recycling is an absolutely wonderful way, and there are currently 8,000 jobs in the United States associated with it. Additionally, we are looking at places like the Butte Berkeley Pit and the acid mine drainage for critical minerals resources. So, with that we don't need to compromise the American public for these resources.

And I am here for any questions.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF DERF JOHNSON, DEPUTY DIRECTOR, MONTANA  
ENVIRONMENTAL INFORMATION CENTER

ON H.R. 7662, H.R. 7807 AND H.R. 8952

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

Thank you for the opportunity to appear before the House Subcommittee on Energy and Mineral Resources to offer my opinion on the Crow Revenue Act (H.R. 8952), the Intergovernmental Critical Minerals Task Force Act (H.R. 7807), and the Critical Minerals Security Act of 2024.

I am the Deputy Director of the Montana Environmental Information Center (MEIC), a non-profit environmental advocate founded in 1973. MEIC has tens of thousands of members and supporters in Montana and across the United States. MEIC's organizational mission is to protect and restore the land, air, water, and life-sustaining climate of Montana, and advocates, educates, and empowers people in service of a clean and healthful environment for present and future generations. Montana has a unique constitutional guarantee of a right to a clean and healthful environment for its people, and MEIC works to protect and enforce that right.

Through my work, I have gained unique insight into the permitting process for coal and hardrock mines in Montana. As a law student at the University of Montana, I focused on environmental and natural resources issues, and in particular energy production and mining. For the past 15 years, I have been employed

as both a lobbyist and attorney for MEIC and have focused on the legal and policy issues of mining and energy production in Montana. I represent MEIC and other parties in legal matters before state and federal courts, serve as a registered lobbyist during the Montana Legislature's biennial sessions, and work with both state and federal agencies in implementing policies and regulations on these matters. This experience has helped to inform my opinion on mining and energy development, both in Montana and across the West.

As a native Montanan, I share a common sentiment of caring for and valuing the land we call home. Montana is an important place for me personally. It is a place of abundant beauty and recreation that is unlike anywhere else that I have lived or traveled. Over the years, I have traveled extensively across Montana—to hunt, fish, camp, bike, boat, and drive, and have done so in virtually every county in the state. I particularly enjoy visiting the vast acreage of federal land that we have in Montana. These places are some of the least populous places in the lower 48 and offer the opportunity for solace and escape from the daily grind of life.

Because these bills currently before the Subcommittee address two distinctly different issues, I will take them up separately below.

### **I. The Crow Revenue Act: H.R. 8952 (Rep. Zinke)**

The mistitled “Crow Revenue Act” is legislation that would allow for the Signal Peak Mine to proceed with a major mine expansion and to mine federal coal without a required environmental review under the National Environmental Policy Act (NEPA). If such a review were to be conducted, it would fully disclose and characterize the impacts that mining and burning the coal will have on our climate. The mine has proven devastating to the Bull Mountains, a semi-arid, central Montana range that has traditionally been dependent upon cattle ranching for its local economy. As written, the Crow Revenue Act will not benefit the Crow Tribe, as the revenue sharing agreement applies to coal that does not have an active mine in its vicinity and will not be developed. Further, the legislation is not conditioned on the establishment of a revenue sharing agreement, and the details of such an agreement are unspecified and undetermined. Finally, the coal industry in the United States, and even across the world, is entering a permanent structural decline, and state, Federal, and Tribal governments should not plan for continued revenue from these operations to fund critical services and infrastructure.

The Bull Mountains mine is an underground, longwall coal mining operation north of Billings, Montana. The mine is owned by Signal Peak Energy, which is in turn owned by a consortium of companies with equal shares: utility FirstEnergy of Ohio, international commodities trader Gunvor, and Boich Companies. Over the past several years, Signal Peak has demonstrated itself to be a uniquely bad corporate actor that has not acted fairly toward the public or regulators.<sup>1</sup> Signal Peak recently pled guilty to lying to mine safety regulators about violations of worker and environmental safety standards. This conviction was part of a larger corruption investigation surrounding the mine that led to numerous convictions for embezzlement, money laundering, drug trafficking, and gun crimes. The steady stream of convictions related to misconduct from the Bull Mountains Mine continues, with reports of the former mine safety director admitting in federal court to lying about mine accidents. Signal Peak is presently on probation for its criminal convictions.

Signal Peak has been seeking an expansion of its operations at the Bull Mountains Mine that would dramatically increase the permitted reserves of the mine and, by volume, potentially create the largest underground coal mine in the United States. The climate implications of this massive expansion cannot be understated. The expansion of the mine would allow for an additional 176 million tons of coal to be mined. Based upon the carbon content of the coal, combustion would result in approximately 375 million tons of carbon pollution once the coal is burned, an amount greater than the annual emissions of all but 16 countries in the world today and nearly 8% of the annual total for carbon dioxide emissions in the United States.

The U.S. Office of Surface Mining (OSM) approved this expansion in 2015. However, in subsequent litigation brought by public interest watchdogs including MEIC, a court determined that the environmental impact statement under NEPA did not contain a sufficient analysis of the climate implications associated with the expansion. The litigation was subsequently remanded to federal district court, and Signal Peak was then prohibited from mining the federal coal until OSM reanalyzed and sufficiently considered the climate change implications of the expansion. Specifically,

<sup>1</sup>Tabuchi, Hiroko. *A faked kidnapping and cocaine: A Montana Mine's Descent Into Chaos*. The New York Times, January 13, 2023. <https://www.nytimes.com/2023/01/13/climate/signal-peak-mine-coal.html> [Accessed Nov. 12, 2024].

OSM was directed to characterize the impacts associated with approving an additional 375 million tons of greenhouse gas emissions, whether through the Social Cost of Greenhouse Gases or another science-based metric.

The Crow Revenue Act would allow Signal Peak to bypass the standard NEPA process currently being conducted in response to a court order and to immediately begin mining the federal coal. Under the Crow Revenue Act, Signal Peak would benefit immensely from a land privatization scheme involving federal land directly adjacent to the Bull Mountains Mine and private in-holdings on the Crow Reservation. The Act would transfer federally owned mineral and surface assets in the Bull Mountains (Signal Peak Tracts) to a private, family-held trust, the Hope Family Trust, in order to enable Signal Peak to avoid the laws that govern the mining of federally owned coal. In exchange, the Hope Family would relinquish to the Crow their 4,660 acres of mineral assets within the Crow Reservation (Hope Family Tracts). The agreement would *not* transfer the surface ownership rights of the lands within the Crow Reservation to the Crow Tribe. Along with the 4,530-acres of mineral assets to be privatized in the Bull Mountains, the Crow Revenue Act would trade away 940 acres of BLM surface lands in an already checkerboarded landscape—a major loss to the residents who hunt and recreate in an area where it is already difficult to access our public lands. The Bull Mountains produce some of the largest trophy elk in Montana and the range is a prized region for hunters from across the state. You can also find whitetail, mule deer, Merriam’s turkeys, bobcats, and mountain lions in the Bulls. However, because the range is largely private, the public lands and access points are a critical aspect of preserving Montana’s public lands hunting heritage in central Montana. The Crow Revenue Act would only further limit these opportunities by privatizing public lands.

Presumably, upon passage of the bill, the Hope Family Trust would lease its newly acquired mineral rights to the Signal Peak mine, although the bill is silent on this point. The bill does not mention the value of the royalty payments that the Hope Family would realize, and that information has not been made public.

More concerning, the bill contains a reference to a “Revenue Sharing Agreement” under Section 4, part (d). This section specifies that the Hope Family would potentially share in revenue derived from the development of the Hope Family Tracts, the lands located on the Crow Reservation, “if those mineral interests are developed at a later date.” Development of this coal, located on the Crow Reservation, is incredibly unlikely, as the coal is not located next to a currently active mine or necessary infrastructure and has not gone through the requisite permitting processes.

If the bill is amended to apply the Revenue Sharing Agreement to the Hope Family’s newly acquired Signal Peak Tracts, it would still not address serious flaws in the Revenue Sharing Agreement. This is because the legislation does not require good-faith negotiations between the parties and a binding agreement within a specified period. Simply put, it does not provide an actual, legal guarantee of revenue for the Crow Tribe.<sup>2</sup> To date, no Revenue Sharing Agreement has been made publicly available.

As mentioned above, the dominant economic land use in the Bull Mountains is ranching. The Bull Mountains are semi-arid, with little available water resources. The limited water resources in the Bull Mountains, in particular groundwater-fed springs, are a critical resource for stock watering and ranching operations. In addition to ranchers, landowners also depend on springs and groundwater to subsist on their properties in the Bull Mountains. Signal Peak is an underground, longwall operation. As the mine progresses, the engineering allows the mine roof to collapse or subside as the longwall advances. This subsidence causes splitting and depression of the surface land above the mine and has repeatedly dewatered springs and wells and caused extensive fracturing of the land surface in the Bull Mountains. Signal Peak has not willingly or successfully replaced the water it has damaged, and on multiple occasions, the company has ended ranchers’ leases (forcing them off the land) rather than reclaim damaged springs and wells. Approving the Crow Revenue Act will only exacerbate this issue, and seriously impact surface owners who have ranches and lived in the Bull Mountains for generations.

Finally, the coal industry in the United States is in a tailspin, and internationally there are clear signs that worldwide coal demand will flatline and begin a steady, structural decline within the next few years, in large part due to more affordable and cleaner energy sources coming online. State, Federal, and Tribal governments should not plan for continued, predictable revenue from these operations to fund critical services and infrastructure. Over the past decade, numerous examples have

<sup>2</sup>See Mike Hill and Alea Bird Hat: Daines’ bill is misleading, Billings Gazette, July 27, 2024. [https://billingsgazette.com/article\\_42079ed6-528e-58ce-93fc-d3337d784753.html](https://billingsgazette.com/article_42079ed6-528e-58ce-93fc-d3337d784753.html). Op-ed. [Accessed on Nov. 12, 2024].

demonstrated that heavy reliance on revenue from coal mining has proven to be an unpredictable and problematic funding scheme for western states and even the Crow tribe. In April of this year, the Absaloka mine on the Crow Reservation shut its doors, as its only customer, the Sherburne County Generating Station in Becker, Minnesota planned for full retirement of its operation. There was no other market for the Absaloka mine's coal. This was a significant source of non-federal income and employment for the tribe. While royalty payments to the Crow Tribe from the Signal Peak Mine (assuming the bill is amended) may offer short-term funding solutions, the payments are unlikely to represent a long-term funding solution, and any abrupt end to those payments could cause disruptions for the Tribal government through a boom-and-bust scenario.

To conclude, the misnamed Crow Revenue Act should be rejected by this committee. As written, it will not provide revenue to the Crow Tribe, and even with amendments will likely not address the deficiencies in the concepts currently outlined in the Revenue Sharing Agreement section. What the legislation *will* authorize is for the mining of a very substantial amount of coal that will result in more GHG emissions than the single largest source of emissions in the United States and will do so without an actual analysis of its implications. The legislation will also allow for the Bull Mountains Mine to destroy essential springs and wells in a semi-arid region, force family ranchers off their land, and will privatize federal public lands for the benefit of private interests.

## **II. Intergovernmental Critical Minerals Task Force Act: H.R. 7807 (Rep. Obernolte) and Critical Minerals Security Act of 2024: H.R. 7662 (Rep. Houlihan)**

H.R. 7807 creates an intergovernmental task force charged with recommending how we reduce our mineral reliance on foreign entities of concern while increasing sourcing from mining and recycling. H.R. 7662 requires reports to Congress on the locations and beneficial ownership of rare earth and other critical mineral deposits worldwide and studies for advanced mining and processing techniques. The goals of H.R. 7807 and H.R. 7662 have merit, such as addressing the materials needs for the clean energy transition and avoiding relationships with countries that have poor human rights track records. These bills should be careful not to narrowly view critical minerals sourcing to just mining, and instead consider the full range of alternative sources including reuse, repurposing, recycling, and unconventional feedstocks from mine tailings or acid mine drainage.

Neither H.R. 7662 or H.R. 7807 close the gaps in U.S. environmental standards or corporate due diligence requirements. Failure to align domestic standards with the European Union's due diligence will close off those markets to domestically produced products, rendering American mining and clean energy manufacturing industries less competitive. Due diligence processes de-risk mineral supply chains through company plans, investigation, avoidance, and mitigation of human rights and environmental violations. Due diligence can simultaneously help remove foreign entities of concern from our mineral supply chains and provide companies a premium for responsible sourcing.

Any attempt to incentivize domestic production of minerals must be accompanied with a reform of our outdated mining laws. With increased mining comes increased impacts to public health, the environment, and especially frontline communities. According to the Toxic Release Inventory, managed by the U.S. Environmental Protection Agency (EPA), metal mining already releases by far the largest volume of toxic constituents into our environment,<sup>3</sup> and more than 40% of headwaters in the U.S. have been polluted by mining. Even more concerning, compared to other kinds of hard-rock mining, rare earth element mines produce more toxic waste, the waste is often radioactive, and the waste often escapes beyond the fence line.<sup>4</sup> With this in mind, as well as the serious distinct impacts that metals mining has on our

<sup>3</sup>United States Environmental Protection Agency. *Releases by Chemical and Industry*. TRI National Analysis. March, 2024. <https://www.epa.gov/trinationalanalysis/releases-chemical-and-industry>.

<sup>4</sup>Paul, Justin, Campbell, Gwenette. U.S. Environmental Protection Agency. Investigating Rare Earth Element Mine Development in EPA Region 8 and Potential Environmental Impacts (August 15, 2011). Available online: [https://reviewboard.ca/upload/project\\_document/EA1011\\_001\\_Investigating\\_Rare\\_Earth\\_Element\\_Mine\\_Development\\_in\\_EPA\\_Region\\_8\\_and\\_Potential\\_Environmental\\_Impacts.PDF](https://reviewboard.ca/upload/project_document/EA1011_001_Investigating_Rare_Earth_Element_Mine_Development_in_EPA_Region_8_and_Potential_Environmental_Impacts.PDF). Gramling, Carolyn. *Rare earth mining may be key to our renewable energy future. But at what cost?—We take you inside Mountain Pass, the only rare earth mine in the United States*. ScienceNews (January 11, 2023) <https://www.sciencenews.org/article/rare-earth-mining-renewable-energy-future> [Accessed Nov. 14, 2024].

wildlife,<sup>5</sup> air, and water, any evaluation of increased mining activity must be accompanied by input and consideration on the elimination and mitigation of its impacts.

If the goal is to domesticate more mining in the United States, then we need to first take a hard look at our mining safeguards. U.S. mining laws, and the laws and regulations of many states, are sorely out of date and in need of modernization. A recent report by the Interagency Working Group on Mining Laws, Regulations, a cross section of agency representatives, found that, in planning for an increase in domestic sourcing of minerals, “We must also learn from the lessons of the past and ensure that our actions do not come at the expense of human health or workplace safety; Tribal consultation or community engagement; or the air, water, and other crucial resources upon which we all depend.”<sup>6</sup> Incorporating the considerations and concerns of frontline communities is especially important for critical minerals, as mineral resources are often located on or adjacent to Tribal Reservations. A recent analysis found that “97% of nickel, 89% of copper, 79% of lithium and 68% of cobalt reserves and resources in the U.S. are located within 35 miles of Native American reservations.”<sup>7</sup>

Most problematic, decisions over public lands mining in the United States continue to be driven by the General Mining Law of 1872, a 152-year-old law that has remained largely unchanged and does not account for the serious societal changes, increased population and its demands on public lands, and development of 21st century mining technology. Initial decisions on pursuing mineral development and mining are typically made without full guidance or consideration of the environmental and social impacts of the site in question, which often leads to contentious mining proposals and poorly sited mining projects.

Already, potential mining proposals in Montana for rare earth elements are drumming up extensive opposition from communities, who value certain landscapes for amenities beyond mining, such as the fishing and recreation industry, and access to clean water. The potential Sheep Creek mine at the headwaters of Montana’s Bitterroot River is a prime example.<sup>8</sup> Poorly sited mining claims under the General Mining Law consistently make the press in Montana, most recently where a junior mining company took advantage of a 48-hour expiration of an administrative mineral withdrawal on land owned by the Bureau of Land Management (BLM) on the defunct Zortman-Landusky mine site to stake 10 claims. Zortman-Landusky is a poster child for poor mining in Montana that has poisoned a water source for the Fort Belknap Indian Community and cost the state and federal government approximately \$80 million and counting in reclamation costs.<sup>9</sup> The Tribe has repeatedly voiced its opposition to further mining in the Little Rocky Mountains, but the General Mining Act does not allow for development to be steered away from this region.

A common misconception is that modernizing environmental and public health safeguards would render the U.S. less competitive relative to other locations in the mining and production of critical minerals. However, the opposite is true; peer nations are implementing high standards regarding due diligence and ESG in materials sourcing, and if we do not keep up, we risk losing access to those markets. For that reason, the legislation needs to codify the same human rights due diligence requirements and standards the Europeans now demand apply to minerals, batteries, and other products placed in the EU market. Failure to align the domestic mineral supply chain with these due diligence standards may close off EU markets to American minerals, risking our competitiveness.

Further, as supply chains continue to be established and the clean energy economy matures, governments and consumers are increasingly demanding that materials be sourced with environmental and human rights considerations in mind.

<sup>5</sup> University of Cambridge. “Thousands of birds and fish threatened by mining for clean energy transition, study finds.” ScienceDaily, 26 July 2024. <https://www.sciencedaily.com/releases/2024/07/240726113419.html> [Accessed Nov. 13, 2024].

<sup>6</sup> Biden-Harris Administration’s Interagency Working Group on Mining Laws, Regulations, and Permitting, *Recommendations to Improve Mining on Public Lands* (September, 2023). <https://www.doi.gov/sites/default/files/mriwg-report-final-508.pdf> [Accessed Nov. 14, 2024].

<sup>7</sup> Block, Samuel. Mining Energy-Transition Metals: National Aims, Local Conflicts. MSCI, ESG Research (June 3, 2021). <https://www.msci.com/www/blog-posts/mining-energy-transition-metals/02531033947> [Last accessed Nov. 14, 2024].

<sup>8</sup> Boddy, Nathan. *Potential mine near Sheep Creek worries Bitterroot Valley residents: While companies exploring the area tout the potential for a multi-billion dollar operation, community members fear for the environment and their way of life*. Montana Free Press (July 18, 2023). <https://montanafreepress.org/2023/07/18/potential-mine-near-sheep-creek-worries-bitterroot-valley-residents/> [Accessed on Nov. 13, 2024].

<sup>9</sup> Eggert, Amanda. *New mining claims at Zortman prompt push for investigation*. Montana Free Press, October 26, 2021. <https://montanafreepress.org/2021/10/06/mine-claims-in-zortman-prompt-call-for-investigation/> [Accessed on Nov. 13, 2024].

Recognizing this, European Union partners have already embedded the United Nations Guiding Principles (UNGP) definitions of human rights due diligence and supportive frameworks from the Organization for Economic Co-operation and Development (OECD) into their mineral supply chain laws and regulations, notably the EU Battery Law. Under the law’s due diligence requirements, companies are required to “identify, prevent, and address social and environmental risks linked to the sourcing, processing and trading of raw materials such as lithium, cobalt, nickel and natural graphite contained in their batteries.”<sup>10</sup> Assuring that U.S. regulatory safeguards align with those existing efforts and regulations of our partner nations will not just assist in addressing environmental and human rights concerns, but will potentially open additional markets for critical minerals producers.

Due diligence requirements are not a sweeping or novel concept for the United States, but we have yet to codify our commitments into laws to ensure that companies are abiding by them. The US, as a member state of the Office for Economic Cooperation and Development, endorsed the OECD framework for due diligence known as the Guidelines for Multinational Enterprises on Responsible Business Conduct (“OECD Guidelines”) in May 2011. The State Department is the lead agency responsible for implementing these guidelines through Agency activities and the U.S. government has further embedded them into other Agency plans through the National Action Plan on Responsible Business Conduct. These guidelines provide a ready to implement, 5-step framework, based on best practice and endorsed by governments globally, for companies to carry out sound risk management through effective human rights due diligence.

Compared to most ESG reporting frameworks, which focus on easily quantifiable risks and associated actions, OECD due diligence requires companies to identify the risks that are most salient and likely to occur. It pushes beyond risk identification, requiring companies to adapt their management systems and operations on the ground to mitigate them. It also supports operational sustainability through helping companies address harms effectively and efficiently when they do occur and instilling a culture of continuous improvement through emphasizing due diligence as an ongoing process.

The U.S. codifying our commitments into legal corporate due diligence requirements of the mining industry ensures that companies are undertaking the strongest, most effective form of risk management that responds to investor demands. A 2024 Ernst & Young report on the top 10 business risks and opportunities for mining and metals found that local community impacts are the number one ESG factor facing the most scrutiny from investors.<sup>11</sup> Investors know from cases like that of the Las Bambas Copper Mine in Peru, where community protests over social and environmental impacts shut down a mine for several weeks and caused financial losses of \$9.5 million each day, that effective due diligence is core to a company’s social license to operate, which is necessary for a project’s sustainable output.<sup>12</sup> Requiring companies to undertake OECD-aligned due diligence is in the best interest of the U.S. in its efforts to build strong, reliable mineral supply chains.

Perhaps most important, the sourcing of critical minerals does not have to be entirely reliant upon greenfield mining. In fact, the United States is in the beginning stages of the development of circular supply chains for the reuse and recycling of critical minerals used for the clean energy transition. Additionally, by making products such as EV batteries more efficient, and longer lasting, we could reduce the total amount of primary or virgin materials.

Planning and developing cities and urban areas with mass transit and density in mind can reduce our need for critical minerals. According to a report by the Climate and Community Institute and the University of California, Davis, such practices could “lower the demand for lithium between 18 and 66 percent.” Further, considering smaller vehicles and transportation options, which in turn requires smaller

<sup>10</sup> European Commission. (August 2023). *Circular economy: New law on more sustainable, circular and safe batteries enters into force*. EU Environment Newsletter. [https://environment.ec.europa.eu/news/new-law-more-sustainable-circular-and-safe-batteries-enters-force-2023-08-17\\_en](https://environment.ec.europa.eu/news/new-law-more-sustainable-circular-and-safe-batteries-enters-force-2023-08-17_en) [Accessed Nov. 13, 2024].

<sup>11</sup> Mitchell, Paul. *Top 10 risks and opportunities for mining and metals companies in 2025*. [https://www.ey.com/en\\_us/insights/energy-resources/risks-opportunities](https://www.ey.com/en_us/insights/energy-resources/risks-opportunities) [Accessed on Nov. 14, 2024].

<sup>12</sup> Business and Human Rights Resource Center, Peru: Indigenous communities protest against the modification of the Environmental Impact Assessment (EIA) of the Las Bambas mining project (Mar. 11, 2024) <https://www.business-humanrights.org/en/latest-news/peru-indigenous-communities-protest-against-the-modification-of-the-environmental-impact-assessment-eia-of-the-las-bambas-mining-project/> [Accessed Nov. 14, 2024].

batteries and less minerals, could see a “42% reduction” in lithium demand by 2050.<sup>13</sup>

Sourcing from already environmentally disturbed areas, such as legacy mines and waste repositories, may also offer an opportunity for increasing critical minerals production. Acidic waters emanating from Montana’s abandoned mines have been documented to contain abundant rare earth elements, and researchers and the United States Department of Defense are investigating the potential for the environmental catastrophe that is the Berkeley Pit in Butte to offer the potential for sourcing elements.<sup>14</sup> Coal ash impoundments have also been identified as a potential source of rare earth elements, offering an opportunity to clean up and repurpose a legacy waste stream.

The above-mentioned alternatives are not half baked, delusional visions without backing. Quite the contrary, alternatives and efficiency gains in the battery industry have already had a major impact on the mineral demands for production of those products. Without technological developments and recycling solutions, over the past 10 years demand for lithium would have been 58% greater, nickel 127% greater, and cobalt 138% greater.<sup>15</sup> The United States is actively investing in battery reuse and recycling capacity, with facilities that have already been announced accounting for over 8,000 jobs.<sup>16</sup> As more EVs come off the road at the end of their useful life, these facilities will provide a valuable domestic source of critical minerals and affordable batteries.

As the United States continues to transition to cleaner, more affordable, and carbon-free sources of energy, there will undoubtedly be an associated, continued increase in demand for certain raw materials and metals necessary for the infrastructure and build-out of this new energy system. But in our race to clean up our energy system, we don’t have to and shouldn’t compromise clean water, public health, and the American people.

Thank you again for the opportunity to appear before the Committee. I wish the Committee well as it seeks to address the important issues that surround critical minerals development and coal mining on our nation’s public lands.

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Dr. WITTMAN. Thank you for your testimony, Mr. Johnson. Our next witness is Mr. Frank White Clay. He is the Chairman of the Crow Tribe of Indians, and he is stationed in Crow Agency, Montana.

Mr. White Clay, you are now recognized for 5 minutes.

#### **STATEMENT OF FRANK WHITE CLAY, CHAIRMAN, CROW TRIBE OF INDIANS, MONTANA**

Mr. WHITE CLAY. Thank you, Chairman and members of the Committee. I am Frank White Clay, Chairman of the Crow Nation.

I am here today to express our full support of the Crow Revenue Act, H.R. 8951. This bill provides an equitable resolution to the long-standing land and resource management challenges on the Crow Reservation, and strengthens our future as a tribe. The Crow Revenue Act will transfer approximately 4,660 acres of private subsurface inholdings, known as the Hope Family Tracts on the Crow Reservation of the Crow Tribe of Montana. In exchange, the Crow Tribe would transfer 4,530 acres of Federal subsurface and 940

<sup>13</sup>Thea Riofrancos, Alissa Kendall, Kristi K. Dayemo, et al, “*Achieving Zero Emissions with More Mobility and Less Mining*,” 2023, Climate and Community Project [http://www.climateandcommunity.org/more-mobility-less-mining].

<sup>14</sup>Adams, Duncan. *Berkeley Pit could yield value again*. Montana Standard, April 2, 2024. [https://mtstandard.com/news/local/berkeley-pit-rare-earth-elements-montana-mining-association-defense/article\\_5b74f4fe-f136-11ee-b50d-abcf9ea6f3a4.html](https://mtstandard.com/news/local/berkeley-pit-rare-earth-elements-montana-mining-association-defense/article_5b74f4fe-f136-11ee-b50d-abcf9ea6f3a4.html) [Accessed Nov. 13, 2024].

<sup>15</sup>Walter, Daan, Atkinson, et al. *The Battery Mineral Loop: The path from extraction to circularity*. Rocky Mountain Institute. July, 2024.

<sup>16</sup>See National Renewable Energy Lab. (March, 2024). *Online NAATBatt Lithium-Ion Battery Supply Chain Database*. (Last updated Sept. 26, 2024). <https://www.nrel.gov/transportation/li-ion-battery-supply-chain-database-online.html>. [Accessed Nov. 14, 2024].

acres of Federal surface interest in Musselshell County, Montana, referred to as the Bull Mountain Tracts.

A key provision of the bill requires that the Crow Tribe and the Hope family enter into a revenue sharing agreement for any development of the Bull Mountain tracts. This will provide a crucial revenue stream for the Crow Tribe as we seek to revitalize our economy. The bill mirrors the bipartisan Northern Cheyenne Lands Act of 2014, which successfully addressed similar issues for the Northern Cheyenne.

H.R. 952 offers the same pragmatic solution. It resolves private inholdings on a reservation, while creating much-needed economic opportunities for the Crow Tribe, and ensuring certainty for development in Musselshell County. The legislation mandates a three-party land exchange involving the Crow Tribe, the Hope Family Trust, and the U.S. Government.

The Secretary of the Interior is required to convey approximately 4,530 acres of Federal subsurface and 940 acres of Federal surface interests at the Bull Mountains to the Hope Family Trust. In exchange, the Hope Family Trust will convey 4,660 acres of subsurface within the boundaries of the Crow Reservation to the Crow Tribe. Upon request by the tribe, the Secretary is directed to take these lands into trust for the benefit of the Crow Tribe.

The land exchange will allow the Crow Tribe to consolidate our ownership and control of our own lands within the reservation, a crucial step in managing and developing our own natural resources. The legislation provides the potential for critical revenue stream for the Crow Tribe of the Bull Mountain tracts are developed and round up with the expedited reduction of the Absaloka Mine on the Crow Reservation, which provided substantial royalties to the tribe. These revenues would help mitigate the economic impact in support of the tribe's financial stability.

The Crow Tribe has always depended on our lands and natural resources for survival. Over the centuries, the tribe has made supreme sacrifices to reclaim and maintain our homeland. Since the treaty of 1851 and 1886, the tribe's land base has been continuously reduced from 38 million acres spanning Montana and Wyoming to just 2.4 million acres today. The bill addresses a central element of our struggle consolidating our land base, securing our right to manage our own land, and benefit from our own resources.

As a result of these land losses, the tribe currently faces significant economic challenges, including limited access to employment and development opportunities on the Crow Reservation. Non-tribal members, meaning non-tribal owners, control large portions of the surface and subsurface holdings within the reservation, which limits the tribe's ability to manage and benefit from our own resources.

The transfer of 4,660 acres of subsurface on the Crow Reservation to the tribe is critical to allowing us to exercise full control over our own future development. This consolidation of ownership, combined with the ability to regenerate revenues from the Bull Mountain tracts represents an opportunity for the tribe to address our severe economic and social challenges. The tribe has been denied access to Federal funds, grants, and incentives, due to the



invalid debts being referred to the Treasury Offset Program, also known as the Do Not Pay list. This prevented the Crow Tribe from benefiting from many new programs created and funded during the COVID-19 pandemic, which it otherwise would be eligible for.

Fortunately, my administration was able to clear this issue up. However, we will not be able to retroactively receive these awards. Restoring our economic independence through our land resource management will help mitigate these lost funds and strengthen the tribe's future by providing much-needed resources to develop our own economy.

The Crow Revenue Act is not just a land exchange; it is an investment in the future of the Crow Tribe. Thank you.

[The prepared statement of Mr. White Clay follows:]

PREPARED STATEMENT OF FRANK WHITE CLAY, CHAIRMAN, CROW NATION  
ON H.R. 8952

### **Introduction**

Chairman and members of the Committee, I am Frank White Clay, Chairman of the Crow Nation. I am here today to express our full support for the Crow Revenue Act. This legislation addresses crucial land management issues, generates opportunities for economic growth, and reaffirms the sovereignty of the Crow Tribe by consolidating our ownership of ancestral lands. This bill provides an equitable resolution to long-standing land and resource management challenges on the Crow Reservation and strengthens our future as a Tribe.

### **Background on the Crow Revenue Act**

The Crow Revenue Act would transfer approximately 4,660 acres of private subsurface inholdings, known as the Hope Family Tracts, on the Crow Reservation to the Crow Tribe of Montana. In exchange, the Tribe would transfer 4,530 acres of federal subsurface and 940 acres of federal surface interests in Musselshell County, Montana—referred to as the Bull Mountains Tracts. A key provision of the bill requires that the Crow Tribe and the Hope Family enter into a Revenue Sharing Agreement for any development of the Bull Mountains Tracts. This would provide a crucial revenue stream for the Crow Tribe as we seek to revitalize our economy.

This bill mirrors the bipartisan Northern Cheyenne Lands Act of 2014, which successfully addressed similar issues for the Northern Cheyenne Tribe. H.R. 8952 offers the same pragmatic solution: it resolves private inholdings on our Reservation while creating much-needed economic opportunities for the Tribe and ensuring certainty for development in Musselshell County.

### **Three-Party Land Exchange**

The legislation mandates a three-party land exchange involving the Crow Tribe, the Hope Family Trust, and the United States government:

- The Secretary of the Interior is required to convey approximately 4,530 acres of federal subsurface and 940 acres of federal surface interests at Bull Mountains to the Hope Family Trust.
- In exchange, the Hope Family Trust will convey 4,660 acres of subsurface within the boundaries of the Crow Reservation to the Crow Tribe. Upon request by the Tribe, the Secretary is directed to take these lands into trust for the benefit of the Crow Tribe.
- This land exchange will allow the Tribe to consolidate our ownership and control of lands within the Reservation, a crucial step in managing and developing our natural resources.

### **Economic and Cultural Significance**

This legislation provides the potential for a critical revenue stream for the Crow Tribe if the Bull Mountains Tracts are developed. With the expedited closure of the Apsáalooke Mine on the Crow Reservation, which provided substantial royalties to the Tribe, these revenues would help mitigate the economic impact and support the Tribe's financial stability.

The Crow Tribe has always depended on our lands and natural resources for survival. Over the centuries, the Tribe has made supreme sacrifices to reclaim and maintain our homeland. Since the Treaty of 1851 and 1886, the Tribe's land base has been continuously reduced—from over 38 million acres spanning Montana and Wyoming to just 2.3 million acres today.

This bill addresses a central element of our struggle: consolidating our land base and securing our right to manage and benefit from our resources.

As a result of these land losses, the Tribe currently faces significant economic challenges, including limited access to employment and development opportunities on the Reservation. Non-tribal owners control large portions of surface and subsurface holdings within the Reservation, which further limits the Tribe's ability to manage and benefit from our natural resources.

The transfer of 4,660 acres of subsurface on the Crow Reservation to the Tribe is critical to allowing us to exercise full control over future development. This consolidation of ownership, combined with the ability to generate revenues from the Bull Mountains Tracts, represents an opportunity for the Tribe to address our severe economic and social challenges.

The Tribe has also been denied access to federal grants and incentives due to invalid debts being referred to the Treasury Offset Program, also known as the "Do Not Pay" list. This prevented the Crow Tribe from benefiting from many new programs created and funded during the COVID-19 pandemic which it was otherwise eligible for. Fortunately, my Administration was able to clear this issue up, however we will not be able to retroactively receive these awards.

Restoring our economic independence through land and resource management will help mitigate these lost funds and strengthen the Tribe's future by providing much needed resources to help develop an economy.

### **Conclusion**

The Crow Revenue Act is not just a land exchange; it is an investment in the future of the Crow Tribe. It enables us to consolidate our ownership of our ancestral lands, secure much-needed revenue, and regain a measure of economic independence. I urge the Committee and the Senate to support this critical legislation, which will help the Crow Tribe overcome long-standing challenges and build a brighter future for our people.

Thank you for your consideration of this important legislation and please contact me directly with any questions.

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Dr. WITTMAN. Thank you, Mr. White Clay, for your testimony. We will now recognize Members for 5 minutes for questions.

Mr. Rosendale, we will start with you.

Mr. ROSENDALE. Thank you very much, Mr. Chair, for convening this important hearing and for Representative Zinke introducing legislation H.R. 8952.

The Crow Revenue Act is critical for ensuring the continued operation of the Bull Mountains Mine, providing stability and alleviating concerns about its potential closure. Montana and its tribes rely on coal production from Bull Mountain Mine to sustain good-paying jobs and to generate essential tax revenue for government services. The ongoing efforts by this administration to restrict coal production in Montana have far-reaching consequences that extend beyond energy access for our state, the nation, and the world.

In 2023, coal royalties for Montana State Trust lands contributed \$46 million to our public schools. Losing these funds would lead to severe shortages and force difficult decisions that can compromise high-quality education that our children receive.

Moreover, this bill is essential for addressing the economic hardships facing the Crow Tribe. It is not just a land swap; it is a lifeline that assures the future of the Crow Tribe, supports Montana's children, and strengthens our national security.

I urge my colleagues across the aisle to carefully weigh these significant implications before opposing this legislation simply because of its connection to coal. This bill is about much more than coal. It is about protecting America's interests and preserving the Western way of life in Montana.

Chairman White Clay, thank you so much for being here today. It is great to see you again. Could you please comment on the Ranking Member's comments that the Crow will not share in any of these coal royalties?

Mr. WHITE CLAY. Yes, those statements are completely false. The Crow Tribe will benefit in the realm of, I want to say, an estimated \$100 million to the Crow Tribe, \$10 million for 10 years. And that would significantly help with the Crow Tribe, seeing as we had a 90 percent reduction in our revenue to the Crow Tribe from the Absaloka Mine.

Mr. ROSENDALE. Thank you so much.

Now, \$100 million may not mean much in this city because they spend billions. But I can tell you something. In the state of Montana, \$100 million is a lot. Our entire annual budget for the state is \$7 billion, roughly, \$7 billion for the entire state. Ten million dollars a year for 10 years to the Crow Agency is a large amount.

Chairman Clay, in your testimony, you discussed the economic challenges faced by your tribe. Could you explain the Do Not Pay list process and its impact on your tribe's economic standing?

Mr. WHITE CLAY. Yes, thank you.

The Crow Tribe was unjustly put on a Do Not Pay list, which is a punitive action that was not made for tribes, and it restricts the Crow Tribe from receiving any Federal grants, funds, or awards from the Federal Government. And we were put on there for the last 4 years, and we currently are off now.

Mr. ROSENDALE. Thank you so much.

Mr. Johnson's testimony describes coal as a declining industry, suggesting it is unreliable for funding essential services and infrastructure, disregarding the fact that the Biden administration and radical environmentalists are regulating coal out of business, not natural market conditions. With that perspective in mind, how does your tribe plan to use the increased funds from this legislation?

Mr. WHITE CLAY. The increased funds from this legislation will go to fund everything from the Crow Tribe, from social services, the MMIW is ground zero. My reservation is ground zero in the MMIW. We had 78 search and rescues this year alone for missing murdered Indigenous, and it funds everything from social programs to the elderly funds to just about everything on the Crow Reservation. We had to do that because we did not receive any Federal grants or awards in my administration.

Mr. ROSENDALE. Thank you so much.

Mr. Johnson, thank you for being here. Please share my greetings to Anne Hedges. I haven't seen her in quite some time, and we did a lot of work in the State Legislature.

You have referenced the potential for a boom-and-bust scenario resulting from this legislation. Are you suggesting that the Crow

Tribe is incapable of responsibly managing its finances and preparing for future economic changes?

Mr. JOHNSON. Representative, no, and we fully support the tribe pursuing funding. However, part of the reason that we are here today is because of what happened on the reservation recently in which the Absaloka Mine shut down, and it lost its only customer, the Sherburne Generating Station in Minnesota. And that was a significant shortfall for the tribal budget.

Now, that is just indicative of a much larger issue across the United States. Over the past—

Mr. ROSENDALE. Mr. Johnson, I have to reclaim my time because it actually is gone, and now I have to yield back to the Chairman. But I appreciate that you believe that the tribe should be able to manage their own affairs.

And Mr. Chair, as you could see, the Chairman was actually disagreeing with some of those statements. So, someone may want to inquire as to what he was referring to.

Dr. WITTMAN. Yes. I thank the gentleman from Montana. We appreciate that. And if we can come around to a second round of questions, we are glad to go ahead and reintroduce that topic.

I now turn to the gentleman from California, Mr. Huffman.

Mr. HUFFMAN. Thank you, Mr. Chairman, and there certainly is some good work here today that we are able to discuss in a bipartisan way. I am sorry to see, however, that we are entertaining H.R. 8952, which I do not think is a good piece of legislation. It strikes me as more of a handout to industry that would come at the expense of the American public and our natural resources, so I wanted to dedicate my time mostly to that bill.

The Signal Peak coal mine, of course, is at the heart of the proposed land swap here. The company claims that, without access to Federal coal in the Bull Mountain tracts, the public lands would be traded to private landowners, that Signal Peak may be forced to close the Bull Mountain coal mine.

Mr. Johnson, I just want to ask you. Signal Peak currently holds the Federal leases for that coal. Can you please explain why the company would be willing to give up those leases for this land swap to go forward? What is in it for them?

Mr. JOHNSON. Representative, it involves their end run around our environmental processes. Right now, there is a court order that says that the U.S. Office of Surface Mining did not do its job under its environmental analysis for the mine, and that they need to go back and redo it. And that has significant implications on the ground for people.

So, rather than addressing that and evaluating it through that process, what this legislation would do is basically remove that process entirely, and allow for the company to proceed without those important considerations. And some of those considerations are, what is the impact that this mine, this coal, once it is mined and burned, where it is shipped to Asia and burned, is going to have on our climate? What are the implications for people who live on the ground, and ranch, and have water sources that are directly impacted from the subsidence associated with this mine?

I would love to see a NEPA analysis on the land transfer issue, and the fact that we are taking close to 1,000 acres of public lands

and making them private in the Bull Mountains. That is a big deal in Montana. And I suspect that a lot of people would have something to say about that.

Mr. HUFFMAN. Thank you, Mr. Johnson. I want to go to Chairman White Clay.

Welcome, sir, to the Committee. It is an honor to have you here. This legislation is called the Crow Revenue Act, and I think many of us are interested in supporting our Indigenous tribes, certainly in upholding sovereignty and in supporting economic development in various ways, but there is some debate about whether some of the promised revenues would actually accrue to the tribe in this case.

And you laid out what sounded like a pretty clear at least expectation of revenue sharing. Do you have a binding agreement or an instrument of some kind that you have executed with the family?

Mr. WHITE CLAY. Yes, we do.

Mr. HUFFMAN. Is there any reason that can't be codified into this bill? Because right now, as we read the bill, there is nothing binding at all in the legislation.

Mr. WHITE CLAY. Yes, they are working on a technical amendment. The Senate is working on a markup. But also, I think that plays into an action of sovereignty on the Crow Tribe's part, where we, as a sovereign nation, can come in and we are competent as a nation to come into agreements with other entities.

Mr. HUFFMAN. But without compromising your sovereignty, if we could codify the commitment for the Hope family, that would be a way of guaranteeing that this revenue would go to you. Why not just put that in the legislation so that we cannot debate this, and no one needs to speculate that you are going to be left high and dry here?

Mr. WHITE CLAY. OK. Yes, like I said, there is a technical amendment that is coming forth in the markup on this, and we do have a binding agreement with the Hope family.

Mr. WHITE CLAY. OK. Well, I hope maybe there can be some continued effort in that regard.

Mr. Johnson, I want to go back to the environmental impacts. I don't have a lot of time, but the Ranking Member described some of the ways in which Signal Peak has not always been a good actor. And if we are simply trusting them to move forward in a thoughtful and environmentally responsible way without any environmental review, why is that a problem? And why are ranchers and local communities in the area so concerned about environmental impacts of this mine expansion?

Mr. JOHNSON. Representative, this particular mine has lost its social license to operate. Bribery, lying to regulators, the list goes on. It has been profiled. They are currently on criminal probation, and they just can't be trusted.

Mr. HUFFMAN. All right, thank you.

I yield back.

Dr. WITTMAN. I thank the gentleman from California. We will now go to the gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. As I sit here and listen, I think back to the hearings that I have been involved with during the 118th Congress.

Being in the private sector my entire life, this being my first venture into public service, I think what comes to mind as you talk, Mr. Johnson, is the EPA, people don't trust them. There is a lack of trust because of a lot of what you sit there and espouse, especially sitting next to a guy that, it is his deal. It is the Crow Nation. It is not you. But you find that you need to interject into it to espouse the environmentalist problems or whatever you see.

What I see from a private sector person, and what I see from the motoring public out there is an EPA that drags their feet, that has every environmentalist out there sue-crazy to try to stop every project just because they don't want to see something go forward. In this case, a mining operation that is probably very much needed, and these people could use the money, and they are the ones that are affected by it, both economically, financially, everything. But yet, here you come along to poke your nose into it because you know more than the rest of us, probably the rest of us in this room.

And then I look down the line there, and you have Ms. Lombard there, great work, because what I see from the hearings I have been involved with is, sure, we have a problem out there. What are we down to, three smelters in this country? And 80 percent of the minerals that we produce in this country, what do we do with it? We ship it to China so that they can process it in those great green factories they have over there, probably the ones you like. And then they ship it back to us at an extra expense when we could be doing that here ourselves, and the American people could be making that money. By God, that is what we call America first, and that is what we showed the world on November 5. It is time to get back to America first.

Ms. Lombard, I loved what you have here, 100 percent of 15 of the most 50 critically listed individual minerals are coming out of China, not even produced here because we have a guy over here who says if we have a burning problem somebody is going to be in trouble. My dad always said if a frog had wings, he wouldn't bump his butt.

Dr. Williams, in recent weeks we have seen the Chinese Government introduce export controls on dual use critical minerals. Even as the United States consumes these minerals at increasing rates, aside from the bills being discussed today, what measures need to be implemented to ensure America remains competitive with China in developing our critical minerals?

Dr. WILLIAMS. Thank you for the question. I do have to preface my answer with the fact that we are a scientific agency. We support policy decisions, but we don't recommend policy ourselves.

However, there are a variety of things, many choices that the United States and its friendly partners can do with respect to critical minerals. There are, of course, the options of producing more, mining more, whether with a close trading partner or within the United States. There are technologies that are being investigated and developed to substitute for the critical minerals in certain applications or to reduce the amount that are required. And, of course, looking at options for increasing the reprocessing or recycling.

There are a wide range of options out there, and we work with other Federal agencies, of course, state geological surveys and partners, to better understand what is involved in those.

Mr. COLLINS. We have seen stacks of recycled material. They don't know how to recycle this stuff. They don't even have a process. But I appreciate it. I hate to sound negative, but I want to switch gears with Mr. Travis, just because I don't have but 45 seconds.

Can you discuss the negative effects on public trust when decisions are not made on the merits, but instead determined by default due to procedural failures?

Mr. TRAVIS. Yes, I mean, I am an American taxpayer. And when I look at it, you look at a government agency that just does whatever they want. You have no way out. You have to sit there for 3 years. You finally get to district court, and they have set the playing field. You don't even get to present your own facts. So, I think any process like that, everybody should get to go to court and have a fair shake.

Mr. COLLINS. Much better said than what I said. Thank you.

With that, Mr. Chairman, I am going to yield back.

Dr. WITTMAN. I thank the gentleman from Georgia. We will now go to Ms. Houlahan from the great state of Pennsylvania, Commonwealth of Pennsylvania, excuse me.

Ms. HOULAHAN. The great Commonwealth of Pennsylvania, yes.

Dr. WITTMAN. I have to remember that. There are four commonwealths, and Pennsylvania and Virginia are two of them.

Ms. HOULAHAN. That is right.

Dr. WITTMAN. Yes.

Ms. HOULAHAN. That is right. Rhode Island and Puerto Rico are the third and fourth.

Thank you very much for the chance to talk to you. I am waiving on to this Committee for the day to talk about some stuff that is really relevant to all of us: critical minerals, critical minerals security, and how we can be more dominant in the control of this, and understanding where our role is to make our nation stronger and safer.

And specifically with this Mineral Securities Act, it focuses on international data and on collecting that about critical minerals. And it will be, I believe, crucial to making sure that we understand how to better onshore critical supply chains and pier shore, near shore, all of those things that we talk about.

Given the urgency of these challenges, which is absolutely urgent, and developing domestic capacity for processing, not just processing things that we mine, but also processing the recycling, to the gentleman's point, what kind of things could the Federal Government, Federal policy do to help overcome these challenges?

And I am going to telepath to you permitting reform. Ms. Lombard, could you answer that question for me?

Ms. LOMBARD. Thank you, Congresswoman, and for your leadership on minerals and also on permitting. Thank you for that question.

NEPA and its process is extremely important. And in terms of permitting, it is slightly misunderstood. For minerals, it is an important process. It just takes a very, very long time. And I think

what we need to have is certainty. We have had a bunch of uncertainty, whether it is from administration to administration changing rules, and I think, with recent Supreme Court actions, it is time for Congress to really speak on that.

And I think, leading with the critical minerals and the importance of onshoring, bringing back minerals, but we are already onshoring many manufacturing on top of the different energy supplies that we need to do. So, we need to look at ways to improve our processes and still respect the environment in terms of doing that. And we can do that.

And I believe, going back to whether it is your legislation, but as well as the bill I am here to testify on, it is important for us on the task force to look at these. We want to protect the environment. We want to also speed up how we can get certain projects through. Those that have already gone through environmental review, those that are on disturbed land, we have to have a way that we can streamline how we do permitting and get projects that we need to be done faster.

Ms. HOULAHAN. I would concur, and I think that there is a possibility and an appetite in the lame duck where we are sitting right now for there to be actual movement, bipartisan and bicameral movement, on permitting form and transmission reform as well. Manchin and Barrasso have one, I think, really good set of ideas on that and specific to this conversation on critical minerals. What kind of specific permitting or regulatory reform would affect this particular part of our issue with trying to be more independent and also safer for our planet?

Ms. LOMBARD. Thank you for that question. Just to clarify, are you talking specifically about the minerals?

Ms. HOULAHAN. Yes.

Ms. LOMBARD. OK. In terms of the Manchin-Barrasso, the EPRA bill, it is doing a few things.

It is, first, as you mentioned, on transmission, it is clearing the way for potentially ways to have transmission built faster. Now, minerals are very important to transmission, so we have that.

And then we also have, in terms of judicial review, it is putting certain timelines in there so we can speed the process along.

I would say parallel to that, here on the House side, we have had the Fix Our Forests bill, which is now moving, and moving over to the Senate. It has some interesting components in it, as well, in terms of judicial reform.

So, I think the blueprints are there. But specifically for critical minerals, I think the judicial review side is what is most important that is currently in the bill.

Ms. HOULAHAN. With what remains of my time, I kind of want to foot-stomp on the importance of trying to take advantage of this lame duck to try to move forward on some things that I think we can all agree on. And the importance of this particular opportunity is, I think, a real thing to make sure that we are talking about, and talking about as loudly as we can. If people are hearing me over on the Senate side, and I am hoping that people are hearing me on the House side, I think we have an opportunity here.

But importantly for my side of the aisle, as well, I want to make sure that we talk as well about IRA and IIJA, because it is impor-



tant that there be infrastructure, as well, for any sort of mining that we do, any sort of opportunity for transmission or permitting reform. It doesn't help if you don't have the roadways, bridges, tunnels, broadband, all of those kinds of things. Can you comment with what remains of my time on that, as well as what is helpful in this particular conversation?

Ms. LOMBARD. Thank you, Congresswoman. In my comments, I talked about the energy demands and, not only onshoring, but our advanced manufacturing, large scale manufacturing, and mining. All of this requires quite a bit of electricity. And in terms of meeting our current needs and our future needs, we need to address all of those.

Ms. HOULAHAN. Thank you. I have run out of time.

I appreciate the time and chance to waive on. Thank you, I yield back.

Dr. WITTMAN. I thank the gentlewoman from Pennsylvania. We will now go to the gentlewoman from Wyoming, Ms. Hageman.

Ms. HAGEMAN. Thank you.

Mr. Travis, listening to you talk about the IBLA, and the information that I have practicing in that area reminds me of the book by Franz Kafka, *The Trial*. You just never know when you are going to be able to make it through the leviathan of that process that is there.

Mr. White Clay, I am looking forward to the excitement of the development that you are looking at. Coal is the energy of the future, and I think that this is a fabulous opportunity for your tribe. I want to thank Mr. Zinke for the work that he has done on that important bill for your tribe and your tribal members.

Mr. Travis, thank you so much for being here and for being so supportive of this important legislation. I know that you have had to work with a lot of people whose cases have been stuck in front of the IBLA at their expense, and I appreciate the good work you have been doing on this, and we are grateful to have you here today.

Have your clients had to pay significant legal fees while they wait for their cases to be taken up?

And what have you observed regarding the personal and financial cost of the IBLA's broken process?

Mr. TRAVIS. Yes. Thank you, Congresswoman. Legal fees are expensive, especially when you are talking about a minimum of 3 years that you are before the IBLA, before can you get out to district court. So, yes, the legal fees are hundreds of thousands, if not millions, of dollars. And folks are just stuck in that process.

Ms. HAGEMAN. There is no consequence, no accountability from the agency itself for forcing people into that kind of a never-ending doom loop, is there?

Mr. TRAVIS. No, and we have actually gotten documentation from the agency that that is one of their strategies. The agency will say, let's just get this, let's make a decision because we know when they get to IBLA it will be stuck there for 3 years and they won't get a decision. So, agencies use that.

Ms. HAGEMAN. Wow, what a broken process. What an absolute broken process, and so contrary to our form of government.

The IBLA claims to resolve a significant number of cases each year, about 270, which would be about 22 cases per month. But is the IBLA misleading people regarding these claims? And if so, how are they doing that?

Mr. TRAVIS. Yes, I think there is a distinction to be made there between resolving claims and deciding claims on the merits. As I mentioned, IBLA has over 600 cases before it. They decided just 36 on merits. So, if they were to decide all the cases on the merits, we are looking at about 20 years to get out of that process.

The cases that you mentioned that they decide, that 200 number, are on technicalities, on things like not filing in time, not paying a fee in time, things like that, not on the actual merits of a case.

Ms. HAGEMAN. So, it sounds like we have a lot of problems with the IBLA, and my bill is to address some of them specifically related to the time constraint. Are there other ways in which we need to try to fix the IBLA if it is actually going to be a functioning adjudicatory body?

Mr. TRAVIS. Yes, I think any time you have a body that is statutorily constructed instead of through the normal legal process, you are going to have problems. Essentially you are hoping that an agency created by the government is going to rule fairly between the government and another party. So, I do think broad reform is needed there across the board.

Ms. HAGEMAN. My experience has been with ALJs, as well. And the SEC and FTC are two agencies that are very abusive in terms of using ALJs. I think that they have a 95 percent-plus success rate in front of their independent ALJs, while maybe a 60 to 65 percent success rate in front of an Article III court.

And I think you really just hit the nail on the head. Sometimes we look at reform and we think that we can fix this, but the reality is that these supposedly intentionally independent agencies or appellate adjudicatory bodies are actually extremely biased towards the agency that they allegedly oversee. Isn't that true?

Mr. TRAVIS. Yes, I think so, and I think we see that not just in Federal Government, but in state government as well. I mean, I can tell you my experience in practicing in other states is between, before an ALJ you are likely to lose 90-plus percent of the time.

Ms. HAGEMAN. That is right.

Mr. TRAVIS. When you actually get to court, if you get a fair shake, a de novo review, your odds are 50/50.

Ms. HAGEMAN. So, just going back to the brass tacks of what that means is that the IBLA and these ALJs really are a violation of the fundamental constitutional right to due process because you are not getting due process. You are having to take your appeal to the very agency that made the decision in the first place.

And I think that this speaks to a broader issue in terms of regulatory reform across the board, which is getting quite a bit of airplay since the election. But the reality is that we have stacked the deck against the citizens and businesses of this country, and we have stacked it in favor of a Federal Government that is too powerful, too big, too expensive, too much willing to go into debt, and too ready to do the kind of deficit spending that we have seen over the last 20 years especially.

So, I think this is an important discussion. This bill is an important first start. Thank you for being here to testify on it.

With that, I yield back.

Dr. WITTMAN. I thank the gentlewoman from Wyoming. We will now go to the gentleman from Rhode Island, Mr. Magaziner.

Mr. MAGAZINER. Thank you, Chairman.

Critical minerals are essential for our economy and are increasingly found in everything from mobile phones to medical equipment. And thanks to the Chips and Science Act and the Inflation Reduction Act passed by Congressional Democrats, we are manufacturing more in America again, which means that our need for access to critical minerals is only increasing.

New factory construction is growing at a faster rate than probably at any time in my lifetime in the United States. We are bringing back semiconductor manufacturing. We are building windmills. We are doing all sorts of things that require access to critical minerals. And as this country continues to expand jobs and advance technologies and manufacturing, we need access to a reliable and sustainable supply of these minerals. But at the same time, where they come from and how they are produced does matter. And without proper planning and monitoring and oversight, production of critical minerals can become dominated by foreign nations who are adversarial to the United States, or by companies operating in the United States that do not have adequate concern for environmental impact, labor standards, and the like.

So, we have to figure out a better way to work together to improve our critical mineral supply chain and increase production, but do it in a way that is sustainable and fair and minimizes negative impacts.

Dr. Williams, I will ask you first. Recently, a number of voluntary mining standards have been adopted by mining associations in countries like Canada, Australia, Argentina, and a number of the international associations, as well. These standards set goals regarding water use, greenhouse gas emissions, community development, health and safety on the workplace. And they allow customers and end users to know that their minerals in their products were mined sustainably.

There has been talk about a single International Consolidated Mining Standard initiative. Can you just talk, from your point of view, your agency's point of view, the usefulness of some sort of an international standard to track, monitor, and set targets around sustainability in mining?

Dr. WILLIAMS. Thank you for the question.

Within the minerals commodity world, we work a lot with international standards or relatively compatible national standards that come to address questions about mineral resources and reserves, the reporting that is required about what material you have in a mine and how much material there is. And those are professional statements that are reported for publicly-traded companies, for example, so that the people who are working on whether it is USGS understanding the global resource picture or individual investors in the marketplace know there is a certain reliability on that information.

And from that perspective, as these other aspects become more important in the broader community, whether it is environmental aspects, community engagement, protections for workers and worker safety, if there are consistent reporting procedures and compliance procedures across countries, however that is implemented, we don't have a perspective on the actual details, but I think it would assist the market as a whole and the community as a whole.

Mr. MAGAZINER. Yes, I think it is very important that there be reputable third-party actors, whether they are associations or government organizations that are actually doing the monitoring and overseeing the reporting of data because if everyone is kind of reporting their own data however they want, it is very hard to get accurate apples-to-apples comparisons. And I would love for us to do more to make the data available to end users, as well, so that I know, when I go to buy my next phone, what is in it and where it comes from.

Ms. Lombard, I am curious for your perspective on the same thing, as well. How do we strengthen and sort of tighten up reporting requirements and standards across the mining industry?

Ms. LOMBARD. Thank you, Congressman, for that question. I recently moved, well, a year ago, from Arizona, where I work very closely, I am bringing TSMC to Arizona. So, I know as a state we are very excited about the reshoring of chip manufacturing in the United States and that partnership.

Specific to your question, that is why I am excited to be here in support of the Intergovernmental Critical Minerals Task Force. It goes to some of your question about how the Committee itself or the task force can, and I will quote from it, "make recommendations to secure United States and global supply chains for critical minerals."

And going to your question about global supply chains, we can make those recommendations, or the Committee can make those recommendations so that we can identify where these minerals are coming from and so forth. And also potentially looking at those environmental standards.

Mr. MAGAZINER. Thank you. I am out of time, so I will yield back.

Dr. WITTMAN. I thank the gentleman from Rhode Island. I now recognize the gentleman from Montana, Mr. Zinke.

Mr. ZINKE. Thank you, Mr. Chairman. I guess the first question goes to Mr. Johnson.

Mr. Johnson, I am just reading your bio. Your bio states you are a policy advocate, attorney, lobbyist, and works to address the climate crisis by holding the fossil fuel industry accountable and to transition the energy system to cleaner sources. Is that correct?

Mr. JOHNSON. Representative, it should be. Yes, absolutely.

Mr. ZINKE. OK. And also, you hold a certificate from the Natural Resources Conflict Resolution from the Center of Natural Resources and Environmental Policy. You hold a certificate?

Mr. JOHNSON. Yes.

Mr. ZINKE. Do you hold a degree in any science, any field of science?

Mr. JOHNSON. Representative I work with a lot—

Mr. ZINKE. Yes or no, do you hold a degree in any field in science?

Mr. JOHNSON. No.

Mr. ZINKE. OK. Thank you very much. Have you done any work in treaties, particularly Indian treaties? Because you are an attorney, you are a member of the bar in good standing. Have you done any work in treaties?

Mr. JOHNSON. I have done some work with treaties, and I am a little bit familiar with them. But I wouldn't consider myself an expert.

Mr. ZINKE. Are you familiar with Crow treaties?

Mr. JOHNSON. No, I am not.

Mr. ZINKE. Well, actually there are two, Mr. Chairman, I would like to bring to the attention of the Committee. There are 1851 and 1868, and the preamble is to provide for the Crow people sufficient lands to continue their way of life. The document is signed by the U.S. Government and the Indian Nation. And there is a question of sovereignty.

So, I am amazed during the hearing here that the efficacy, the integrity of Signal Peak somehow is relevant to this discussion. I contend it is not. They are a sovereign nation. If they wanted to make a deal with Disneyland, they have that right as a sovereign nation.

Mr. Chairman, I would ask you, do you also hold the same opinion?

Mr. WHITE CLAY. Yes, I do. Thank you.

Mr. ZINKE. Mr. Johnson, have you ever taken a tour of Bull Mountain?

Mr. JOHNSON. Representative, I have never been invited.

Mr. ZINKE. Because in your testimony, you said the elk were sensitive to Bull Mountain. I know you don't have a degree in science, but how would that be, since Bull Mountain is an underground mine about 800 feet below the surface?

Mr. JOHNSON. Representative, I would encourage you to just take a look at my testimony. It wasn't that the elk are sensitive to the underground mine; it was that people enjoy hunting elk in Montana, in particular on our public lands, and this particular legislation would take public lands, close to 1,000 acres that people do hunt elk on, I know people that go up there and do it, and privatize them. And that is the major concern associated with this legislation is the privatization of the public lands and the Bull Mountains.

In terms of the Crow sovereignty—

Mr. ZINKE. Let me ask you this. The privatization, they are mostly from mineral rights, right? Subsurface mineral rights.

Is that true, Mr. Chairman? Can I ask you that?

Mr. WHITE CLAY. Yes.

Mr. ZINKE. So, subsurface mineral rights at 800 feet, how does that affect surface hunting and fishing? Just out of curiosity.

Mr. Chairman, I would like you to answer that. Does it affect surface hunting, fishing, and on the reservation, sir?

Mr. WHITE CLAY. No, it does not.

Mr. ZINKE. Mr. Chairman, I yield back.

Dr. WITTMAN. I thank the gentleman from Montana. We will now go to the gentlewoman from California, Ms. Kamlager-Dove.

Ms. KAMLAGER-DOVE. Thank you, Mr. Chair. And thank you to all of the witnesses for being here today.

I fully respect the Crow Tribe's need for new sources of revenue, and firmly believe we can and should do more to help communities across the country, especially tribal communities that are losing revenue from the decline of certain resources like coal. However, I am concerned that this bill, as written, does not deliver on its sponsor's promises.

We have heard that the Crow Tribe will share in revenue from the Bull Mountain tracts, that is, from Signal Peak's mine, once the land swap goes through. However, as written, the bill instead calls for the Hope family, the private landowners who would relinquish their mineral rights to the tribe, to share in revenues from any future development of the tribally-owned coal.

We have heard that a technical fix is a comin', so the Crow Tribe will indeed share in revenues from the Bull Mountain Mine when the technical fix comes. Even if that happens, I actually remain skeptical that this bill will generate revenue for the tribe.

And while I respect Chairman White Clay's negotiations for the tribe, we are talking about trading public lands and revenues, and I would be more comfortable with legislative guarantees.

So, Mr. Johnson, does this bill, as written, guarantee revenue sharing? And if so, how?

Mr. JOHNSON. Representative, it does not. And I want to be clear here. The land exchange that is currently occurring on the Crow Tribe is a wonderful thing, and they should take possession of those lands. The problem is the public lands that will be given away in the Bull Mountains, close to 1,000 acres, both mineral and surface, about 4,000 mineral acres and 1,000 surface acres of lands in the Bull Mountains.

Now, the way that the revenue sharing agreement is currently written, it states that the Crow Tribe would share in revenue from the Hope family tracks. Those are the coal resources that are located on the Crow Reservation. How it should probably read is that they would share in the Signal Peak tracts, the revenue sharing agreement, and that would allow for potentially some revenue to go to the tribe. However, as we have already sort of heard today—

Ms. KAMLAGER-DOVE. But you said potentially, so that is not guaranteed.

Mr. JOHNSON. That is correct, Representative. And that is because, as written, the revenue sharing agreement is not a condition of the lands transfer. There is no requirement that the negotiations occur in good faith. There is no requirement that revenue actually be part of this legislation. And that is one of our major concerns here, is we don't actually know whether this is going to occur. There is no agreement that has been made public that the American public can see to determine whether or not this is actually a good deal.

And the impacts are really enormous in terms of this mine: water quality impacts, transfer of public lands. So, in the sum of all those things, and without that revenue sharing agreement information, we are opposed to this legislation.

Ms. KAMLAGER-DOVE. Mr. Johnson, what I heard you say, and please correct me if I have misheard, there is no requirement of revenue sharing, there is no guarantee of revenue sharing, and there is also no transparency that revenue sharing would happen and how it would happen. No transparency for either the Crow Tribe or for the public. Is that correct?

Mr. JOHNSON. Representative, that is correct. The legislation will pass, and if at some point in time in the future a revenue sharing agreement is entered into, the only requirement in this bill is that it be sent to the Secretary to basically be filed away. That is not confirmation that this is actually a revenue sharing agreement. That is not transparency for the American public.

We are talking about giving away public mineral resources and public lands. What is the deal, and is it worth it? That is the answer that needs to be opened up so that the public can see.

Ms. KAMLAGER-DOVE. Yes. So, you said, "Is it worth it?" Can you expand on some of the local impacts of the mine to the environment so we have a better sense of if it is worth it?

Mr. JOHNSON. Representative, in Montana, cattle ranching is a big deal. And in order to do that, you need access to water. Water is incredibly critical. And this mine, through its processes, has devastated the water supply in the Bull Mountains. Because of the undermining that occurs, it basically fractures and subsides the lands and de-waters the springs and the wells that ranchers have depended upon for generations to run their operations.

And if this mine proceeds with this agreement, that is what we are going to have more of. It is going to be exacerbated, in addition to the climate issues, in addition to the public land transfer issues. This legislation is just a step too far.

Ms. KAMLAGER-DOVE. Thank you for that.

Mr. Chair, I yield back.

Dr. WITTMAN. I thank the gentlewoman from California. We will now go to the gentleman from Louisiana, Mr. Graves.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman. I appreciate all of you being here today for the hearing.

I am sure many of you have seen the stores have jumped straight from Thanksgiving into Christmas. So, apparently, we are already in Christmas season here, and it reminds me that here we are at Christmas season, and this is the first year or the only year, hey, Santa Claus is real, I just want to be clear, the only year that we have not had a lease sale for offshore energy, OK? This is the only year since offshore energy lease sales have taken place we have not had one. So, what it does is it creates uncertainty in the energy sector for what the future of energy production is going to be. It creates uncertainty. You have issues where, when you create uncertainty, it creates lack of investment.

But global demand for energy doesn't decrease just because supply is decreasing. What happens is it gets filled by different places. For example, there were studies that were done that found that Russia this year alone is projected to profit an additional \$112 billion. Let me say that number again: Russia will profit an additional \$112 billion by filling the global void with their energy. It is predicted or projected that Iran last year alone profited an

additional \$53 billion, that Venezuela last month increased their exports of energy by 65 percent.

Mr. Johnson, I know that in your testimony you cite ESG, and you cite how European countries are using environmental and social governance criteria to look at how they are getting their energy sources, and I think sort of suggesting the United States needs to put more scrutiny. But where I struggle is that right now the European Union is importing somewhere, if I recall, between 15 and 20 percent of their gas from Russia. According to the National Energy Technology Labs, the United States natural gas, LNG, exported to Europe has a 42 percent lower emissions profile over its life.

So, I guess I am struggling when you are telling us to act like Europe whenever Europe is acting like idiots. And let me just put a face on it. If we had taken 1 year, 1 year of Russian oil, excuse me, gas supplies to the European Union, 1 year, the year the Ukrainian war started, we would have reduced global emissions, ready for the number, 218 million tons. So, help me understand how that makes sense.

Mr. JOHNSON. Representative, I think that the main thing that we need to be thinking about here is the opportunity that we have with ESG, and in making sure that our supply chains are actually something that can work for the American people and for American manufacturing.

Mr. GRAVES OF LOUISIANA. Fantastic. Let me go ahead and stop you right there. Thank you, because you are making my next point.

We are talking about supply chains. Great, great. Look at that. I just found this poster sitting right here. Look at that.

Mr. Johnson, this shows the critical minerals and where we are bringing them in from. We have an administration that's energy strategy, and I have said this over and over again, their energy strategy is incompatible with the regulatory agenda, it is incompatible with their critical minerals strategy.

Mr. Chairman, I would like to include in the record, because Mr. Johnson is citing the importance of making sure that we have a supply chain that makes sense, and I would like to think that U.S. objectives, in terms of making sense when you think about ESG, if that is where we need to be going, this is a 2024 report by the United States Department of Labor that was prepared, obviously under the Biden administration, that cites the list of goods produced by child and forced labor around the globe. Pretty extensive.

And what this does is it goes through and it shows that what we are doing is we are trading energy that could be produced domestically, creating jobs, higher environmental standards, appropriate labor standards and, I don't know, economic activity in the United States, and we are trading it for labor that is forced in child labor in other countries that has lower environmental standards.

Do we care about global environmental standards, or are we just going to sit here and put a blind eye and just bring in energy from other countries when they go and trash the environment? It doesn't make any sense from a global perspective.

And I remind you, this year highest emissions ever. And much of that is a result of the incredibly reckless, irresponsible, and inexperienced energy strategy out of this Administration. Out of this



Administration. It really is embarrassing to see folks sit here and come and advocate for things that result in more economic activity in other countries, a greater trade deficit, worse environmental outcomes, and increasing energy unaffordability in the United States.

I yield back.

Dr. WITTMAN. I thank the gentleman from Louisiana.

I would like to ask Dr. Williams, Ms. Lombard, and Mr. Travis three questions. I would like for you to go in sequence and just give me your perspective on this.

First, I recognize myself for 5 minutes.

[Laughter.]

Dr. WITTMAN. Do I recognize myself? Yes, I recognize you. OK.

I would like to ask your perspective on this. I am going to ask you a comparison question. I am going to ask you which country does a better job in adhering to the rule of law, China or the United States?

Dr. Williams?

Dr. WILLIAMS. Well, I am not a legal expert, but I think we do a pretty good job here in the United States.

Dr. WITTMAN. Ms. Lombard?

Ms. LOMBARD. Thank you for the question. The United States.

Dr. WITTMAN. Mr. Travis?

Mr. TRAVIS. The United States, as well.

Dr. WITTMAN. Next question: Which country does a better job in protecting human rights, China or the United States?

Dr. Williams?

Dr. WILLIAMS. Well, again, I am a geoscientist, but I think our common belief is that it is the United States.

Dr. WITTMAN. Ms. Lombard?

Ms. LOMBARD. The United States.

Dr. WITTMAN. Mr. Travis?

Mr. TRAVIS. The United States.

Dr. WITTMAN. Very good. I would say that is a pretty even comparison there, looking at what they do as far as the use of child labor and forced labor.

Last question: Which country does a better job in protecting the environment?

Dr. Williams, the United States or China?

Dr. WILLIAMS. I think it is clear the United States.

Dr. WITTMAN. Ms. Lombard?

Ms. LOMBARD. The United States.

Dr. WITTMAN. Mr. Travis?

Mr. TRAVIS. The United States of America.

Dr. WITTMAN. Do you think today, as we speak, when we look at the overall extraction and refinement of critical minerals and rare earth elements, where we see around the world that China has 70 percent of the extraction capability worldwide and 90 percent of the refining capability, and the United States is overly reliant on China to not only purchase minerals but, by the way, as we heard from Mr. Collins and now what we hear also in recycling those materials, where we create a substance called black mass, where we take out the other components except the metals, and we say we are going to recycle that, and where do we send the black mass?

We send it to China so China can refine it and do what? Sell it back to us.

Would you say, with the comparisons that we have just made, with adherence to the rule of law, with the protection of human rights, with the protection of the environment, that the United States, if it continues to buy and rely on China for critical minerals and rare earth elements, seems like to me that we are supporting a country that doesn't adhere to the rule of law, we are supporting a country that doesn't abide by human rights, we are supporting the destruction of the environment?

Would I be correct in reaching that assumption with your affirmative answers to those series of questions, Dr. Williams?

Dr. WILLIAMS. Certainly, those are all factors we have to take into account when we look at our trade in mineral commodities.

Dr. WITTMAN. Very good.

Ms. Lombard?

Ms. LOMBARD. I would agree with your statement. It is not how the supply chain should work.

Dr. WITTMAN. Very good.

Mr. Travis?

Mr. TRAVIS. I couldn't agree more, Mr. Chairman.

Dr. WITTMAN. Thank you. I will go too to Mr. Johnson and to Chairman White Clay if you would like to reflect on the series of questions there and your perspective on that.

Mr. JOHNSON. Thank you for the question, Representative.

I think it is important, and I do agree that we probably do have some better environmental practices here in the United States. But in my experience on the ground in Montana, we have a long ways to go still. And I don't think that we should necessarily excuse some of the issues that we see across the world to do an OK job here.

I can point to places in Montana, just out my backyard, where there are mines that are \$20 million under bonded, so the Montana taxpayers are going to have to pick the bill up, and where a critical trout stream is about ready to turn into a waterfall right into that particular mine. These are on-the-ground impacts that shouldn't be happening, that we can fix, and we can do it in a way that causes for leadership in the United States to demonstrate that not only can we do it right, but we can do it in a way that is competitive across the world.

Dr. WITTMAN. Yes, and the wherewithal is we have the will and the ability to do it, versus China, which has no interest in doing it. So, I would agree with your observation there.

Chairman White Clay?

Mr. WHITE CLAY. Yes, I agree with you, Chairman, that the United States is a better choice for our critical minerals.

But as a casualty of the war on coal, I am a former coal miner, and I have brothers and sisters in a union that mined palladium in Montana that close to 300-plus jobs are right now in jeopardy and another 400 jobs were lost this past year in the palladium mine there. So, as a miner, we see the effects on heavy regulations. And my whole tribe is a casualty of the war on coal also.

Dr. WITTMAN. Yes.

Mr. WHITE CLAY. So, yes, I am for better standards, but also at what cost?

Dr. WITTMAN. Very good.

I would like to thank our witnesses. Thank you so much for spending your time with us today, for answering our questions, giving us your perspective on things. Very, very helpful, as this Committee considers the bills on the docket today. We thank you.

And this Subcommittee allows the members of the Subcommittee to have additional questions for the witnesses. And if they do, we ask that you respond in writing to these questions that may not have been submitted to you today orally. Under Committee Rule 3, members of the Committee must submit questions to the Committee Clerk by 5 p.m. on Friday, November 22. The hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 4:05 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

**Statement for the Record**  
**U.S. Department of the Interior**  
**H.R. 8952, Crow Revenue Act**

Thank you for the opportunity to provide this Statement for the Record on H.R. 8952, the Crow Revenue Act. H.R. 8952 involves the conveyance of surface and H.R. 8952, Crow Revenue Act mineral estate in Montana involving the Bureau of Land Management (BLM), the Crow Tribe of Montana, and a private party. The bill requires, within 60 days of enactment, the relinquishment of the Federal coal lease associated with Signal Peak Energy's Bull Mountains Mine near Roundup, Montana; the conveyance by the Joe and Barbara Hope Mineral Trust (Hope Family Trust) of approximately 4,660 acres of private mineral estate located within the boundaries of the Crow Indian Reservation in Bighorn County, Montana, to the Crow Tribe of Montana; and the conveyance of approximately 4,530 acres of mineral estate and approximately 940 acres of surface estate managed by the BLM in Musselshell County, Montana (the Bull Mountains Tracts), to the Hope Family Trust.

In addition, the bill states that the mineral estate conveyed by the Hope Family Trust to the Crow Tribe shall not be subject to state or local taxation and shall be held in trust by the United States for the benefit of the Tribe, upon the Tribe's request. Finally, H.R. 8952 requires that the Crow Tribe notify the Secretary of the Interior when the Tribe and the Hope Family Trust have agreed on a formula for revenue sharing from development of the minerals conveyed to the Tribe, should they be developed at a later date.

**Analysis**

Under President Biden's and Secretary Haaland's leadership, the Department is committed to strengthening the government-to-government relationship with Tribal Nations. We believe that Tribal sovereignty and self-governance, as well as honoring the Federal trust and treaty responsibility to Tribal Nations, must be the cornerstones of Federal Indian policy. In addition, the Department is committed to managing public lands and minerals to protect the treaty, trust, religious, subsistence, and cultural interests of Federally recognized Tribes, consistent with our mission and applicable Federal law. By placing lands into trust status through the Department, Tribes are able to reacquire lands within or near their reservations, establish a land base, and clarify jurisdiction over their territories and lands including mineral estates.

The Department supports the bill's goals of addressing inholdings within the boundaries of the Crow Indian Reservation and providing an additional source of revenue for the Crow Tribe. We would like to work with the Sponsor on several modifications to improve the bill. First, we recommend that the conveyances be subject to valid existing rights, as is standard, to ensure that they do not inadvertently result in Federal takings issues under the Fifth Amendment. In addition, we suggest that language be added to the bill that expressly states that the parcels to be conveyed are withdrawn from location, entry, and patent under the U.S. mining laws as of the date of enactment. Including a withdrawal provision for parcels will ensure that no new mining claims are located between enactment and finalization of the conveyances.

The Department also notes that it is unclear whether the Sponsor intends for the required Federal coal lease relinquishment to be consistent with the BLM's coal leasing regulations. For example, under the lease provision referenced in section 3(a)(1) of the bill, the lease relinquishment would be required to follow all applicable regulations. This means that, if enacted, a lease relinquishment cannot occur until the lessee has met all financial obligations associated with the lease, all profitable portions of the leased coal deposit have been mined, and all required reclamation has been completed successfully, as determined by the BLM and the Montana Department of Environmental Quality. As currently drafted, the BLM would be unable to relinquish the lease as directed within the timeframe provided by the bill.

We would like to work with the Sponsor to ensure that the parcels to be conveyed under the bill are of equal value; to provide sufficient time to comply with any applicable laws; and to ensure that public access to nearby BLM-managed public lands is maintained after the conveyance. The Department would also like to work with

the Sponsor to clarify the provision regarding revenue sharing between the Tribe and the Hope Family Trust. As currently drafted, the bill does not appear to specifically require that a revenue sharing agreement be developed. In addition, as currently written, the revenue sharing agreement would also cover the mineral estate conveyed to the Crow Tribe, not the mineral estate conveyed to the Hope Family Trust. Our understanding is that this is a drafting error and that the Sponsor intends for the revenue sharing agreement to cover the mineral estate conveyed to the Hope Family Trust. The Department recommends that the Sponsor amend the bill to address these issues to provide certainty to the Crow Tribe.

We also recommend technical amendments to clarify various terms and exempt the United States from any responsibility for future reclamation efforts associated with the Bull Mountain Tracts, as they would be conveyed into private ownership. The Department looks forward to working with the Sponsor on such modifications as the bill moves forward through Congress.

**Conclusion**

Thank you again for the opportunity to provide this Statement for the Record.

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**Statement for the Record**  
**U.S. Department of the Interior**  
**H.R. 10005, the Expedited Appeals Review Act**

Thank you for the opportunity to provide this Statement for the Record on H.R. 10005, the Expedited Appeals Review Act.

**Background**

The Office of Hearings and Appeals (OHA) exercises the delegated authority of the Secretary of the Interior to conduct hearings and decide appeals of decisions of the bureaus and offices within the Department of the Interior. The Interior Board of Land Appeals (the Board) is an appellate review body within OHA, which operates separately and independently from the bureaus and offices whose decisions it reviews.

The Board provides an impartial forum for the resolution of disputes involving public lands and natural resources under the Department of the Interior's jurisdiction. This includes the use and disposition of public lands and resources, the use and disposition of resources of the Outer Continental Shelf, the authorization of activities on the Outer Continental Shelf, the collection of energy and mineral revenue from the Outer Continental Shelf and onshore federal and Indian lands, and the conduct of surface coal mining under the Surface Mining Control and Reclamation Act. Parties with appeals before the Board, and Federal courts reviewing the Board's decisions, benefit from the subject matter expertise the Board provides on those issues.

Appeals before the Board vary greatly by subject matter and in complexity. The unique circumstances of each appeal determine when an appeal is ready for review and final resolution. For example, the Board may conclude an appeal quickly if it determines that it does not have jurisdiction to decide the appeal. Other appeals may require months to become ready for review as the parties file motions and briefs, seek extensions, or engage in settlement negotiations. Some appeals remain pending for a long time because they are suspended at the parties' request.

Once an appeal becomes ready for review, it is assigned to a panel of two administrative judges for adjudication. The panel, assisted by the Board's limited staff, reviews the briefs and the administrative record, conducts legal research, and prepares an order or decision resolving the appeal. After all the administrative judges have an opportunity to review the draft, the two-judge panel issues a final order or decision resolving the appeal.

Other factors may also affect how long some appeals remain pending. These factors include the large number of stay petitions filed before the Board. Many appeals filed with the Board are accompanied by stay petitions requesting that the Board stay the effect of a decision while an appeal is pending. By regulation, the Board must rule on stay petitions within 45 days, which requires the Board to devote substantial time and resources to the resolution of those petitions. To resolve these and other expedited matters quickly, the Board must sometimes prioritize more recent appeals at the expense of those that have been pending longer.

Decisions issued by the Board are final for the Department and may be reviewed by the United States district courts.

**H.R. 10005—the Expedited Appeals Review Act**

H.R. 10005 would allow an appellant to file a notice of expedited review of an appeal and then require the Board to issue a final decision within 6 months of the notice or 18 months after the date of the appeal, whichever is later. If the Board does not issue a final decision by the deadline, the decision on appeal would be "deemed to be a final agency action for purposes of [the Administrative Procedure Act (APA), 5 U.S.C. § 704]." The bill further directs that judicial review of such decision will be de novo. H.R. 10005 specifies that the bill would apply to all appeals, including those pending before the Board as of the date of enactment.

The Department believes the bill is not necessary. The vast majority of appellants before the Board already have the option to go to Federal court after 45 days. If the Board stays the bureau or office decision being challenged, the appellant must wait for a final Board decision before going to Federal court (but gets relief from the bureau or office decision in the meantime). If the Board does not grant a stay within 45 days, the appellant may immediately seek relief in Federal court from the decision. Ninety-three percent of decisions on appeal to the Board are not stayed.

Like other adjudicators, the Board considers and grants motions to expedite individual appeals if there is good cause to do so.

The Department notes that appellants who file a notice to expedite, as provided under H.R. 10005, may unknowingly cut off their most cost-effective opportunity for review, as proceedings before the Board generally cost less than litigation in Federal court and are easier for unrepresented litigants to navigate. Approximately twenty-three percent of appellants before the Board do not have legal counsel and may be impacted by this potentially unintended consequence. The Department also notes that appellants who file notices to expedite may move their appeals ahead of the oldest pending appeals, lengthening the time for other appellants awaiting decisions. In cases for appeals where an expedited resolution is requested, the Board would continue to decide appeals as expeditiously as possible using current resources, but may be unable to meet the deadlines.

In addition, H.R. 10005 conflicts with other statutes. H.R. 10005 provides for the Federal courts to review Departmental decisions *de novo*. In contrast, the Administrative Procedure Act, 5 U.S.C. §§ 704 and 706(2)(A), provides for judicial review to ensure that agency action is not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

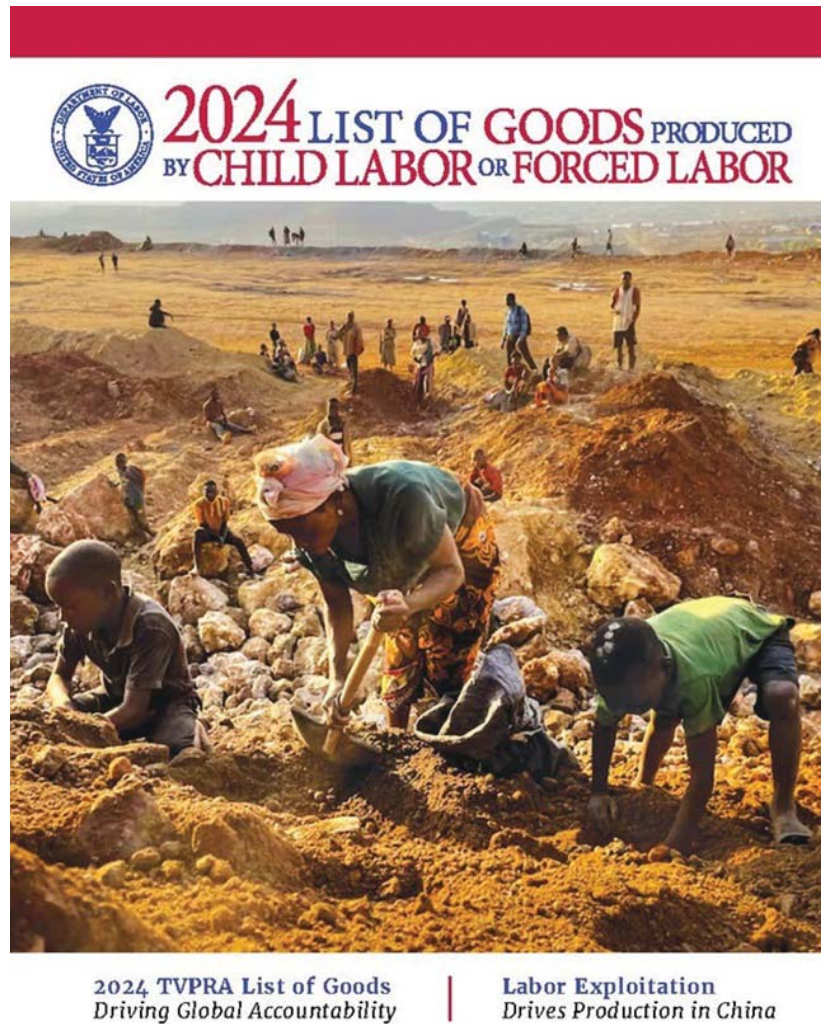
Finally, H.R. 10005 also conflicts with 30 U.S.C. § 1724(h)(2), which provides 33 months for the Department to issue a final decision in a royalty appeal, as well as 30 U.S.C. § 1275(b), which provides 30 days for the Department to issue a decision on an order for cessation of surface coal mining and reclamation operations.

### **Conclusion**

The Board is committed to addressing its appeal backlog as expeditiously as possible. OHA and the Board have worked diligently to strengthen the hearing and appeal processes and will continue to modernize and make improvements.

Thank you again for the opportunity to provide this statement for the record on H.R. 10005.

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**Submissions for the Record by Rep. Graves**

The full document is available for viewing at:

<https://docs.house.gov/meetings/II/II06/20241119/117714/HHRG-118-II06-20241119-SD005.pdf>

