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September 15, 2020

The Honorable Frank Pallone
Chairman
House Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
House Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden:

The undersigned mining-impacted communities, academic experts, and organizations representing millions of members and supporters urge you to oppose any language or legislation that curtails the mining review and permitting processes, or increases domestic mining without appropriate safeguards and reform of the 1872 Mining Act. In recent months, we have seen an increase in misleading arguments from certain members of Congress that are attempting to use national security and child welfare concerns to legitimize their efforts to make it easier and cheaper for mining companies to operate on U.S. soil. In order to have a secure *and* responsible mineral supply chain, we must first update our antiquated mining laws that put our public lands, drinking water, and indigenous lands at risk each day. We reject the need for legislation such as S. 1317, the American Mineral Security Act, to be included within COVID-19 stimulus legislation or other legislative vehicles.

We first want to address a number of fallacies that have become more popular since the pandemic put a spotlight on supply chain issues. The first is the falsehood that our supply of so-called “critical minerals” is low. U.S. mining interests articulate a future of scarcity for various minerals that are

listed by the current administration as critical for national security -- such as uranium -- in order to get financial and regulatory support. This vision of a scarce future is as unlikely as it is dishonest for the majority of these critical minerals. The Strategic and Critical Materials Stockpiling Act, as well as several other existing statutes, already mandates that the U.S. maintain a sufficient supply of critical mineral reserves¹. Additionally, we get a huge percentage of our critical mineral imports from allies with strong labor laws. For example, Australia and Canada, both U.S. allies, have the largest and most economically recoverable uranium resources in the world². The U.S., which only contains 1% of the global uranium resource, can easily source uranium from these uranium-abundant countries. For defense purposes, the United States has decades' worth of uranium supplies.

As a practical matter, minerals are internationally traded commodities on world markets often owned by foreign companies. The best way to ensure a reliable supply of these critical minerals is to maintain our alliances with nations that source these minerals, while promoting public and private sector investment in research, conservation, recycling, and substitution. Ultimately, securing our supply of critical minerals has little to do with domestic mining. Global supply, refining, and product manufacturing chains allow for greater efficiency, creating lower costs for consumers, including the U.S. Military. This supply chain diversity lowers disruption risks. Even in the event of a disruption, both the free market and free trade principles help regulate the behavior of market participants. For example, in 2010, when China restricted the export of certain minerals³, markets and the international community responded precisely how they should. Savvy investors provided capital for new critical minerals projects. The Mountain Pass rare earth and molybdenum mine in California re-opened for business. Australia opened the Mount Weld mine. Critical mineral manufacturers and consumers diversified their supply chains, researched alternatives, and increased recycling.

An additional falsehood propagated by the mining industry is that U.S. regulations keep mining companies from competing globally. The U.S. has some of the most pro-mining policies in the world⁴, essentially allowing unfettered access for mining on public lands via a mining law from 1872 that has never been updated. The U.S. has a competitive market for minerals that is aided by policy that ensures permitting is efficient and revenues are unhampered. Opening a new mine takes on average two years, which is on par with other modern democracies with robust mining industries, such as Australia, Canada, and Norway⁵. States such as Arizona, Alaska and Nevada were identified by a global survey⁶ as among the top 10 most attractive jurisdictions in the world for mining investment.

The U.S.'s pro-mining policy effectively allows multinational mining corporations to send their profits to CEO's in foreign countries while they pollute our public lands and waters for free, without paying any royalties for the minerals they take from American public lands. Communities across the

¹ <https://www.dla.mil/HQ/Acquisition/StrategicMaterials/About.aspx>

² <https://www.world-nuclear.org/information-library/nuclear-fuel-cycle/mining-of-uranium/world-uranium-mining-production.aspx>

³ <https://www.heritage.org/asia/report/china-paper-tiger-rare-earth-minerals>

⁴ <https://www.fraserinstitute.org/sites/default/files/annual-survey-of-mining-companies-2019.pdf>

⁵ <https://www.gao.gov/assets/680/674752.pdf>

⁶ <https://www.fraserinstitute.org/sites/default/files/annual-survey-of-mining-companies-2019.pdf>

country are living with pollution from mining accidents, and taxpayers -- not the polluters -- are often paying for a cleanup bill which has reached \$50 billion dollars across an estimated 500,000 abandoned hardrock mines⁷. We need to hold mining companies accountable for their pollution, in order to protect communities and save taxpayer dollars. American taxpayers already shoulder an enormous financial burden from hardrock mining. The EPA estimates the backlog of cleanup costs for these mines is between \$20 to \$54 billion dollars⁸ -- vastly more than the entire annual Superfund budget, which the Trump Administration has proposed to cut further.

And again, unlike other extractive industries, such as the coal industry, under the 1872 law, mining companies pay no royalties nor a reclamation fee. Whoever stakes a claim and discovers valuable minerals on public lands claims those riches -- more than \$300 billion dollars and counting since 1872 -- without giving taxpayers a dime. We are seeing a massive increase in threats to public lands and communities from mining, including in some of our country's most iconic places: uranium mining near the Grand Canyon; copper-nickel mining near the Boundary Waters Canoe Area Wilderness; uranium exploration in Bears Ears; lithium mining in the Black Rock Desert; and copper and gold mining in Bristol Bay. It is irresponsible to talk about weakening standards and increasing domestic mining when our national treasures are being divvied up in backroom deals, without public input. The needed reform is not that which further guts process and review, but rather that which protects and better balances the needs of communities, tribes, and future generations so they are not left bearing the environmental and public health costs domestic mining has regularly left in its wake.

We must reform our mining laws in order to protect communities and the environment by balancing industrial scale mining with other important land uses, such as conservation, recreation and tourism, municipal water supplies, and renewable energy development. EPA reports that metal mining is the nation's largest toxic polluter⁹, and that 40% of the headwaters of western watersheds are polluted by mining. Every day 50 million gallons of contaminated wastewater stream from abandoned hardrock mines— 20 million gallons of which run untreated into our drinking water systems¹⁰. These new and abandoned mines disproportionately impact tribes and Tribal Land, polluting land and water that many tribes depend on for subsistence.

There are better ways to meet our growing mineral demand than to bailout multinational mining companies or remove regulations on domestic mining that protect, among other things, public health. Public and private sector investment all over the world has spurred innovations in recycling and reuse of critical minerals. In addition to improvements in efficiency, there is tremendous opportunity in "re-mining" the wastes left behind from 150 years of manufacturing, particularly for minerals such as copper, nickel, and aluminum. Our focus and funding should be going towards finally reforming our mining law by passing H.R. 2579, the Hardrock Leasing and Reclamation Act of 2019, and scaling up

⁷ <https://earthworks.org/cms/assets/uploads/2017/12/EPA-542-R-04-015-Cleaning-up-the-nations-waste-sites.pdf>

⁸ <https://earthworks.org/cms/assets/uploads/2017/12/EPA-542-R-04-015-Cleaning-up-the-nations-waste-sites.pdf>

⁹ https://www.epa.gov/sites/production/files/2020-02/documents/industry_sectors.pdf

¹⁰ <https://www.pbs.org/newshour/nation/u-s-mining-sites-dump-50-million-gallons-of-fouled-wastewater-daily>

innovations around recycling, reuse and re-mining, rather than proposals like S. 1317 being proposed for the most recent stimulus legislation.

We oppose S. 1317, and any similar legislation that would undermine environmental safeguards to push reckless mining projects, including the improper use of “byproducts” language to effectively make any mine a “critical mineral mine” with less environmental review as a consequence; broad secretarial discretion on what is considered a “critical mineral,” such as uranium fuel; and the establishment of certain timelines for environmental review that restrict public input. By directing the Secretaries of Interior and Agriculture to accelerate the permitting of hardrock mining across our public lands, this provision in the “HEALS Act” puts a strong finger on the scale in favor of limiting environmental review, short-changing public input and ultimately approving large destructive mining projects, which will have substantially negative impacts for our clean water, air quality, wildlife, and communities. The Pebble Mine in Bristol Bay, Alaska is a prime example of why environmental review for large-scale mines should not be rushed. The Pebble Mine is a massive project that jeopardizes the world’s largest and most productive wild salmon fishery, yet the Army Corps of Engineers has fast-tracked the environmental review process by ignoring important data and analysis and dismissing the input and concerns of Alaska Native Tribes, respected independent scientists, and other state and federal agencies. This resulted in a grossly deficient Environmental Impact Statement. Congress should fight to keep this from becoming the new normal.

Hardrock mining is considered to be the most toxic industry in the U.S. to our communities and natural resources and, therefore, development of “critical minerals” should not mean limiting environmental review under the National Environmental Policy Act and/or reducing public input in mining decisions on public lands. Rather, these decisions must protect communities and cultural resources, safeguard our air and water, and protect wildlife, wildlands, and national parks. For decades, the mining lobby has blocked much-needed 1872 Mining Law reform that would fairly treat both public land owners -- all Americans -- and mining companies. They are now using a public health emergency to help remove the few community safeguards that remain on mining projects.

If we want to obtain critical mineral security, we must focus on safe forms of reuse and recycling, and update our mining laws to protect communities, land, and water; not reduce or remove necessary community and public lands safety regulations. We ask you to reject the inclusion of S. 1317, the American Mineral Security Act, in any stimulus legislation, and ask you to oppose any legislation that suggests we must rush to strip our lands of resources, and the public of its voices for the false promise of enhanced national security.

Thank you for your consideration.

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League of Conservation Voters
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Malach Consulting
Mining Impact Coalition of Wisconsin
Montana Environmental Information Center
National Parks Conservation Association
Native Fish Society
Natural Resources Defense Council
Nevada Conservation League
NM Environmental Law Center
Northeastern Minnesotans for Wilderness
Ocean Conservation Research
Oregon Wild
Patagonia Area Resource Alliance
Physicians for Social Responsibility, AZ Chapter
Portneuf Resource Council, non-profit
PWYP-US
Rock Creek Alliance
Rogue Valley Citizens for Clean Air
Save Our Cabinets
Save Our Sky Blue Waters
Seven Circles Foundation
Sierra Club
Smith River Alliance
Soda Mountain Wilderness Council
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