**2020 NATIONAL MINING ASSOCIATION PLAN: MINERALS**

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2020 MINERALS PLAN

RATIONAL PERMITTING REGIME

National Environmental Policy Act (NEPA) Reform

The Council on Environmental Quality (CEQ) recently published the first substantive revisions to its National Environmental Policy Act (NEPA) regulations designed to make several significant improvements to how environmental reviews are conducted under NEPA. In 2020, the focus will be on securing a final rule that codifies improvements such as time and page limits for environmental reviews, increased reliance on previous reviews, improved agency coordination and focus on significant issues.

STRATEGY:

Regulatory: Submit comments in support of the proposal and urge finalization before the end of the first term of the current administration.

Litigation: Evaluate participation broader industry coalition to defend the final rule.

Legislative: Support NEPA revisions and defend against attempts to block or weaken reforms.

Fixing America’s Surface Transportation (FAST-41)

Signed into law in 2015, section 41 of the Fixing America's Surface Transportation Act (FAST-41) was designed to identify, monitor, and resolve permitting process issues and delays across 15 Federal agencies and partners to deliver a more transparent and predictable permitting time frame for large-scale infrastructure projects by covered sectors. In 2019, NMA secured a recommendation in the Department of Commerce’s Critical Minerals Report to explicitly include mining as a FAST-41 sector and the focus in 2020 will be on obtaining that inclusion.

STRATEGY:

Regulatory: Engage with the Federal Permitting Improvement Steering Council (FPISC), the CEQ and other White House contacts to ensure mining is added to the list of covered sectors eligible for the FAST-41 expedited permitting process.

* **Accomplished: FPISC voted to include mining as a covered sector on Jan. 15, 2020.**

Legislative: Engage congressional allies to oppose efforts to reduce the effectiveness of the FPISC or delete mining and support FAST-41 reauthorization.

Forest Service Mining Regulations

The Forest Service has begun the rulemaking process to improve and streamline its locatable mineral regulations. Focus in 2020 will be fast-tracking a proposed rule that expedites reviews and approvals, aligns treatment of exploration activities with Bureau of Land Management regulations and promotes consistency among agency regions.

STRATEGY:

Regulatory: Advocate for final rule to expedite approvals particularly for exploration activities that impact five acres or less. Submit comments in support of the proposal and urge finalization before the end of the first term of the current administration.

Bureau of Land Management (BLM) Surface Management Regulations

Pursuant to the Critical Minerals Executive Order, BLM is in the process of drafting revisions to its surface mining regulations to streamline authorizations under the Mining Law, improve security of tenure for mining claimants and reduce cost recovery for mineral examinations. In 2020, the focus will be on securing a proposed rule that aligns with NMA’s objectives.

STRATEGY:

Regulatory: Push for expedited reforms. Submit comments in support of the proposal and urge finalization before the end of the first term of the current administration.

Legislative Initiatives

For the past several congresses, NMA has secured introduction of favorable legislation in both the House and Senate to improve the efficiency of the permitting process for mining activities. In 2020, the focus will be on seeking opportunities to advance such legislation, either as standalone legislation or, more likely, as part of a broader package on energy, infrastructure or defense.

STRATEGY:

Legislative: Engagement with congressional allies to advance NMA-backed legislation designed to reduce the 7-10 year mine permitting timeframe that impedes the domestic mining industry’s ability to supply the minerals that are critical to every aspect of modern society.

DEFENDING AGAINST UNFAVORABLE MINING LAW AMENDMENTS

Over the past three decades, legislation to amend the Mining Law has been introduced every Congress. The legislation including the bills introduced in 2019, generally is punitive in nature, containing gross retrospective royalties, taxes on the movement of materials, duplicative environmental standards and greater restrictions on land access. In addition to opposing such punitive measures, focus in 2020 will be on evaluating the opportunity for targeted amendments that achieve the mining industry’s objectives related to a fair net prospective royalty and security of tenure.

STRATEGY:

Legislative: Oppose punitive bills. Work with Senate Energy and Natural Resources Committee on targeted industry-supported amendments.

Litigation: File amicus brief in Rosemont appeal to the 9th Circuit to provide broader mining industry perspective on the appropriate interpretation of the Mining Law regarding rights conveyed to owners of unpatented claims and the ability to use surface resources to further the development of those claims.

ADEQUATE LAND ACCESS

During the Obama administration, mineral withdrawals under the Federal Land Policy and Management Act (FLPMA) were frequently abused in terms of need and scope, as were national monument designations resulting in millions of additional acres of federal lands off limits to mining. While the Trump administration reversed or modified a number of these abuses, land access remains a politically charged issue. The focus for 2020 will be to build upon the Department of Commerce’s 2019 Critical Minerals report recommendations to facilitate access to minerals.

STRATEGY:

Regulatory: Urge expedited completion of the Department of the Interior’s review of withdrawn lands and engage on modifications or lifting of existing withdrawals, especially in highly prospective mineral areas. Evaluate opportunities to return Wilderness Study Areas to multiple use, including mineral exploration and development.

Legislative: Oppose legislation designed to limit access to federal land for mineral exploration and development.

GOOD SAMARITAN INITIATIVES

Despite decades-long focus on finding legislative or administrative solutions, Federal environmental laws continue to pose substantial disincentives in the form of potential liability for third-parties engaging in voluntary remediation of abandoned mined lands (AMLs). In 2020, NMA will build on 2019 activities related to engagement with the administration on incentivization of voluntary remediation work, and increased collaboration with stakeholders willing to break the impasse on enacting commonsense legislation.

STRATEGY:

Regulatory: Engage with EPA’s Office of Land and Emergency Management as they develop administrative tools to incentivize Good Samaritan remediation work.

Legislative: Develop legislative compromise language on key issues without sacrificing needed reforms that will result in on-the-ground company participation. Work with Senate and House bill sponsors in reintroducing the Good Samaritan pilot project bill.

TOXIC RELEASE INVENTORY (TRI) REFORMS

While the Toxics Release Inventory (TRI) requires various industries, including mining, to report annually certain chemicals released to the environment, the TRI data for the mining sector is misleading by implying that the sector releases large amounts of toxic chemicals and compounds. In 2020, focus will continue to be on preventing misuse of TRI data by industry opponents through providing the appropriate context for mining releases – that the vast majority of mining “releases” consist of naturally occurring substances in the dirt and rock and involve materials that are being placed engineered units subject to regulatory permits and approvals.

STRATEGY:

Regulatory: Work with EPA to improve the narrative around the mining sector’s TRI data through additional negotiations on the metal mining diagram. Engage with EPA regarding potential reforms. Develop regulatory text that would clarify the metal mining sector’s TRI reporting obligations under the statute and case law, and secure membership support for the regulatory reform solution and timing of agency advocacy.