

MINERALS CEO MEETING

National Mining Association | April 2023



AGENDA

Welcome and Introductions	Christina Erling
Global Trends	Rich Nolan
Mining Law Litigation	Katie Sweeney
Interagency Working Group (IWG) on Mining Regulations, Laws and Permitting	Katie Sweeney/Ryan Jackson
Permitting Reform Legislation	Ryan Jackson
Federal Incentives for Domestic Mining and Processing	Ryan Jackson
Minerals Security Partnership (MSP)	Veronika Shime
Good Samaritan Initiatives	Ryan Jackson
Resources for Tribal Engagement	Katie Sweeney
Sage Grouse Mineral Withdrawal	Katie Sweeney
Communications	Ashley Burke/Conor Bernstein
Adjournment	Christina Erling

MINING LAW LITIGATION

Three Key Cases Shaping Interpretation of the Mining Law:

Rosemont

- ▶ (Ancillary use/claim validity/interpretation of Forest Service regulations)
Unfavorable decision from AZ district court, affirmed by 9th Circuit

Thacker Pass

- ▶ (Ancillary use/claim validity/interpretation of Bureau of Land Management regulations)
Remanded for failure to determine validity of claims where waste would be stored;
appeal to 9th Circuit pending

Earthworks

- ▶ (Millsites/fair market value/interpretation of Bureau of Land Management regulations)
Favorable D.C. district court decision, appealed to D.C. Circuit; briefing 2023



White House Interagency Working Group (IWG)

IWG on Mining Regulations, Mining and Permitting Next Steps:

Timing

- Recommendations delayed and timing uncertain
- Interagency review began end of Feb. 2023

First Preview

- Department of the Interior (DOI) tribal consultation recommendations specific to hardrock mining projects released in Dec. 2022
- No tribal veto provided or mention of free and prior informed consent

DOI Budget

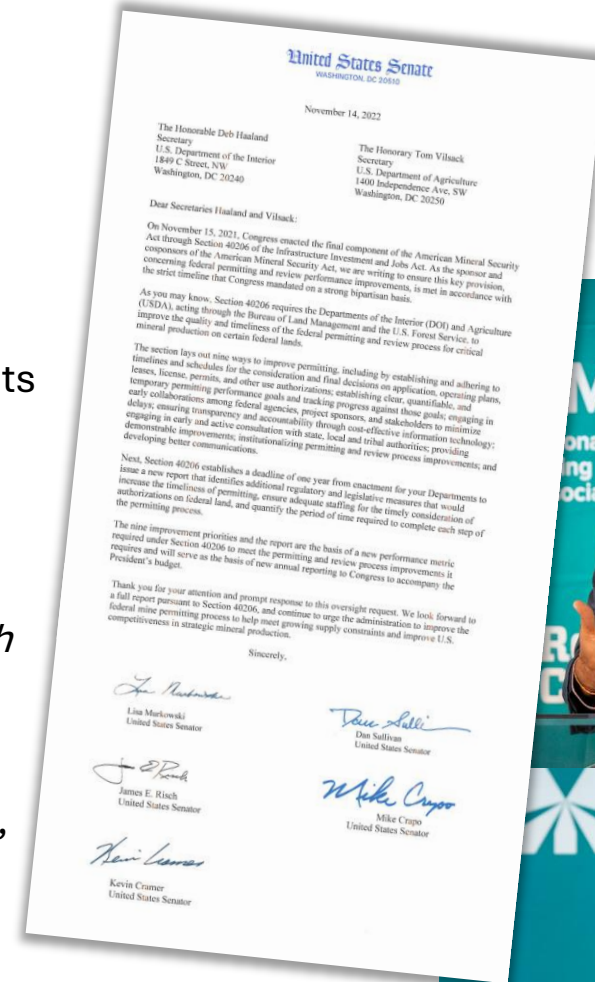
- *“The Administration looks forward to working with Congress in FY 2023 and FY 2024 to implement much needed mining reforms that will ensure strong social, environmental, and labor standards while making improvements in the efficiency, transparency, and inclusiveness of the Federal mine permitting system.”*

Congressional Action

- Oversight and push for permitting reform recommendations that were due in Nov. 2022

NMA Next Steps

- Depending on recommendations and implementation: Congressional oversight, comments process, litigation



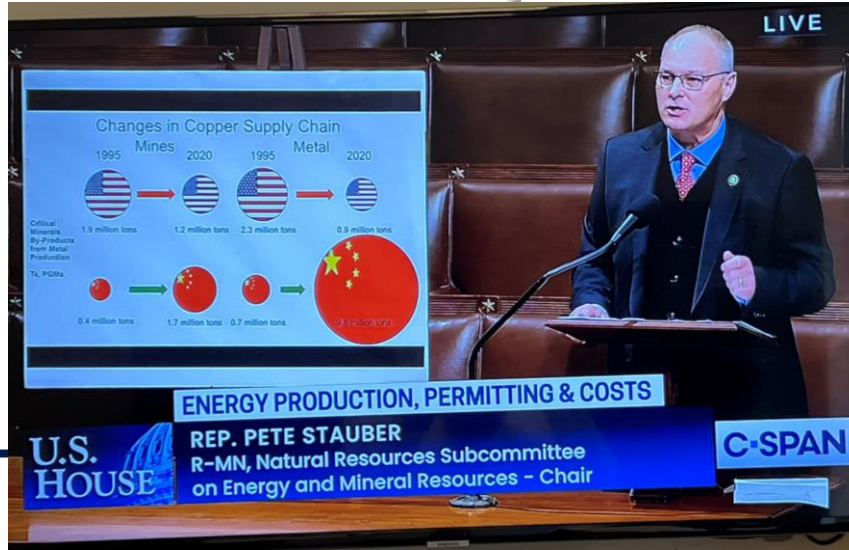
MINE PERMITTING REFORM

E&E
NEWS

E&EDAILY

Manchin, Westerman plot new push for permitting reform

By Emma Dumain, Kelsey Brugger, Jeremy Dillon | 02/02/2023 06:39 AM EST



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118TH CONGRESS
1ST SESSION

H. R. 1

(Original Signature of Member)

To lower energy costs by increasing American energy production, exports, infrastructure, and critical minerals processing, by promoting transparency, accountability, permitting, and production of American resources, and by improving water quality certification and energy projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

roduced the following bill; which was referred to the
ee on _____

A BILL

ts by increasing American energy produc-
nfrastructure, and critical minerals proc-
oting transparency, accountability, per-
duction of American resources, and by
quality certification and energy projects,
poses.

by the Senate and House of Representa-
States of America in Congress assembled,

- Rosemont fix
- Setting lead federal agencies
- Apply Energy Act of 2020 permit streamlining to all minerals
- Time limits on environmental and judicial review
- Codifying project sponsor preparation of environmental reviews
- Apply 5-acre rule to Forest Service land
- New limits on withdrawals

BIDEN WHITE HOUSE MINING PARADOX CONTINUES



John Podesta, the White House Deputy Chief of Staff, says he has an “open-door policy” for mining companies needing permitting assistance



The **Biden administration's top energy security advisor** at the State Department last week called for a “de-risking” of investment into mining projects to spur private sector investment



Hochstein called for aggressive implementation of the Inflation Reduction Act and the enactment of new permitting reform legislation. He said the “urgency is real” to develop an “open, clean, green, transparent energy future” in direct collaboration with allied countries globally.

“If we don’t have a global effort to invest and put standards together of how we build, how we mine, how we process ... we are going to fall into the trap of the past, of a handful of countries that don’t care about labor standards, environmental standards,” he said.



“[Permitting] does take too long in the U.S. We’re looking at the metrics for other nations like Australia and others where their permitting processes can take three to four years, where ours can take seven to 10 years. We are looking at other countries on how they are actually engaged in permitting, in accelerating permitting in a sustainable way...”

- **David Howell**, Acting Director and Principal Deputy Director of the Department of Energy's Office of Manufacturing and Energy Supply Chains

POLITICOPRO

Top Biden officials detail views on critical minerals

White House clean energy adviser John Podesta and State Department energy security aide Amos Hochstein pushed Wednesday for a shift in mining policy.

E&E NEWS **Manchin: Biden admin might 'try to screw me' on EVs**

CRITICAL MINERALS TAX INCENTIVES

Section 45X - The Advanced Manufacturing Production Tax Credit

- 10 percent of the cost of production, never expires

Section 30D - Clean Vehicle Tax Credit

- Demand for critical minerals could increase as a result of changes to this credit
- Credit value dependent on meeting tests for critical minerals and battery components
- Applicable percentage of value of critical minerals contained in battery must be:
 - (i) extracted or processed in the United States, or a country with whom we have a free trade agreement, or
 - (ii) recycled in the North America
- Applicable percentage
 - 40% in 2023
 - 80% in 2027

The New York Times
Lawmakers Rebuke Biden for Bypassing Congress in Trade Deal With Japan



Manchin threatens to sue US Treasury over EV tax credit rules

FEDERAL FINANCING



Program	Authorizing Legislation	Funding Amount	Implementation to Date
DOD: Defense Production Act Title III	Presidential Determination 2022-11	\$1,300,000,000	Individual applications
DOE: Battery Manufacturing and Recycling Grants	IIJA Sec. 40207(c)	\$3,000,000,000	Awards issued 10/19/2022 (21 projects; 20 companies); First round of funding issued May 2022: \$2.8 billion (split with Sec. 40207(b)) (DE-FOA-0002678)
DOE: Battery Material Processing Grants	IIJA Sec. 40207(b)	\$3,000,000,000	First round of funding issued May 2022: \$2.8 billion (split with Sec. 40207(c)) (DE-FOA-0002678)
EXIM: Transformational Exports Programs	EXIM Reauthorization Act, P.L. 116-94	At least \$27,000,000,000	Individual applications
DOE: Rare Earth Security Activities	IIJA Sec. 41003	\$127,000,000	First round of funding available (DE-FOA-0002846)
DOD: Title III of the Defense Production Act (DPA) - Solar; Insulation Materials; Electrolyzers; Platinum Group Metals; Fuel Cells for Hydrogen	IRA Sec. 30001	\$250,000,000	RFI issued 10/3/2022
DOE: Critical Material Innovation, Efficiency and Alternatives	Energy Act of 2020; IIJA Sec. 41003	\$600,000,000	NOI issued 10/14/2022 (DE-FOA-0002846); RFI issued 8/8/2022 (DE-FOA-0002794)
DOE: Advanced Technology Vehicles Manufacturing (ATVM) and Loan Program Office (LPO)	IRA Sec. 50141 IRA Sec. 50142	\$55,000,000,000 lending	Individual applications
DOE: Industrial Emission Demonstration Projects	Energy Independence and Security Act of 2007 Sec. 545(d)(3) (42 U.S.C. 17113(d)(3)) with funding through IIJA and IRA	\$6,300,000,000	First round of funding available (DE-FOA-0002936); Concept papers due April 21, 2023

MINERALS SECURITY PARTNERSHIP

Overreliance on Friend-Shoring?

Purpose • To bolster critical mineral supply chains

Partners • Australia, Canada, Finland, France, Italy, Germany, Japan, the Republic of Korea, Sweden, the United Kingdom, the United States, and the European Commission

Principles for ESG Standards

- Demonstrate responsible stewardship of the natural environment
- Engage in consultative and participatory processes with regard to land access and acquisition
- Commit to meaningful, ongoing consultation with communities
- Ensure safe, fair, inclusive and ethical conditions in the community and the workplace
- Provide economic benefit for workers and local communities
- Ensure transparent, ethical business operations

Lack of Support For US Projects • U.S. out of step with approaches adopted by other partner countries



CRITICAL MINERALS LIST

Aluminum

Antimony

Arsenic

Barite

Beryllium

Bismuth

Cerium

Cesium

Chromium

Cobalt

Dysprosium

Erbium

Europium

Fluorspar

Gadolinium

Gallium

Germanium

Graphite

Hafnium

Holmium

Indium

Iridium

Lanthanum

Lithium

Lutetium

Magnesium

Manganese

Neodymium

Nickel

Niobium

Palladium

Platinum

Praseodymium

Rhodium

Rubidium

Ruthenium

Samarium

Scandium

Tantalum

Tellurium Terbium

Thulium

Tin

Titanium

Tungsten

Vanadium

Ytterbium

Yttrium

Zinc

Zirconium

Energy Policy Act of 2020

- Requires review of list and methodology at least every three years
- Next update – fall 2024
- Methodology updates may include demand shocks and future scenarios

Efforts Underway to Add Certain Minerals Underway

- Copper
- Phosphate and potash
- Uranium

TRIBES AND WATER QUALITY STANDARDS (WQS)

WQS Regulatory Revisions to Protect Tribal Reserved Rights

- EPA has proposed to change its WQS regulations to require states to protect tribal reserved rights
- Lack of clear scope and definitions
- Federalism questions and implementation concerns
- NMA formed industry coalition to request comment deadline extension and file comments
- Comments filed Mar. 6, 2023

Baseline WQS for Indian Reservations

- Picks up from where the Obama administration left off in 2016
- EPA plans to propose a rule to set baseline WQS for Indian reservation waters that do not currently have them
- Currently at OMB for interagency review
- Proposed rule expected soon

NMA Strategy

- Will continue engagement with EPA and industry coalition partners
- Will file comments as appropriate
- Congressional oversight



RESOURCES FOR TRIBAL ENGAGEMENT

Potential Components of NMA Resources Guide:

- What to know before you start
 - Indian Law 101
 - How to identify tribes, territories and off-reservation rights
- Applicable federal laws
- Evolving federal guidance and executive orders
- Use of experts
- Do's & don'ts
- Example tribal engagement plan



NOVEMBER 30, 2022

Memorandum on Uniform Standards for Tribal Consultation

Memorandum
on Tribal
Consultation
and
Strengthening
Nation-to-Nation
Relationships
(1/26/21)

SAGE GROUSE

Court Ordered Reconsideration

- 2021 court decision requires Interior to reconsider 2017 cancellation of 10-million-acre mineral withdrawal
- Bureau of Land Management scheduled this summer to issue notice of preparation of a new environmental impact statement for consideration of whether the withdrawal is needed for greater sage-grouse conservation
- Mineral rich land in six western states implicated
- May provide yet another example of administration's hypocrisy on securing mineral supply chains



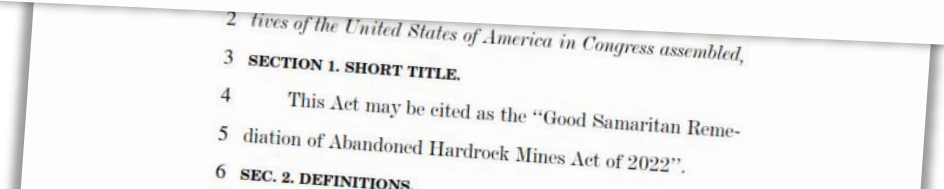
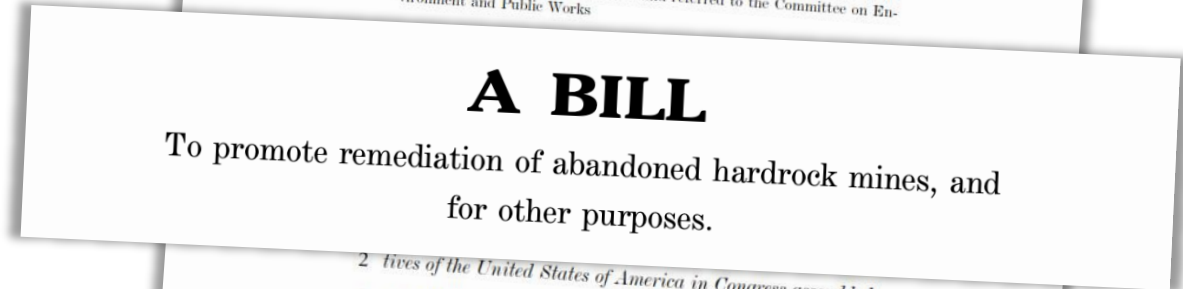
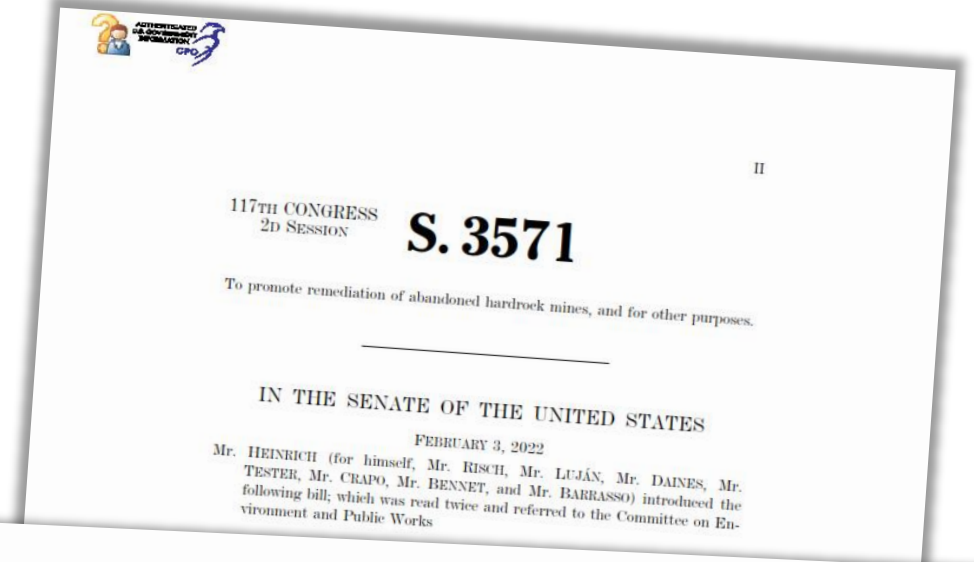
GOOD SAMARITAN INITIATIVES

New Legislation Forthcoming

- First bipartisan legislation in 12 years introduced last Congress
- U.S. Senate Environment and Public Works Committee Legislative Hearing September 2022
- 21 bipartisan co-sponsors

S. 3571 Senate Co-Sponsors:

- | | |
|--------------------------|-------------------------|
| • Lujan (D-N.M.) | • Cortez Masto (D-Nev.) |
| • Daines (R-Mont.) | • Lummis (R-Wyo.) |
| • Tester (D-Mont.) | • Kelly (D-Ariz.) |
| • Crapo (R-Idaho) | • Cramer (R-N.D.) |
| • Bennet (D-Colo.) | • Sinema (D-Ariz.) |
| • Barrasso (R-Wyo.) | • Sullivan (R-Alaska) |
| • Hickenlooper (D-Colo.) | • Heinrich (D-N.M.) |
| • Thune (R-S.D.) | • Risch (R-Idaho) |
| • Rosen (D-Nev.) | • Boozman (R-Ark.) |
| | • Merkley (D-Ore.) |



COMMUNICATIONS

Key Performance Indicators



84

Op-eds



2

Infographics



448

Tweets + Posts



10

Blogs



691K
VIEWS

Minerals Videos:
7



1

NMA Event



COMMUNICATIONS MESSAGING

“Mined-in-America” Messaging is Strong

Should made in America also include mined in America?

YES 74%

NO 9%

DON'T KNOW 18%

Should the U.S. be sourcing these minerals here at home, where we know they will be mined in accordance with the world's top environmental, labor and safety practices?

SOURCE FROM U.S. 74%

CONTINUE SOURCING ABROAD 9%

DON'T KNOW 18%

In your opinion, should the U.S. streamline the permitting process to help our manufacturing sector more easily access mined-in-America materials for made-in-America products?

YES 73%

NO 9%

DON'T KNOW 18%

The Department of Defense has warned that our overreliance on mineral imports and supply chains dominated by geopolitical rivals, like China and Russia, imperils our defense industrial base and our national security. Should the U.S. ramp up domestic mining to address this vulnerability or continue to rely on global markets to meet our needs?

RAMP UP 71%

OTHER 9%

DON'T KNOW 21%

COMMUNICATIONS MESSAGING

Personal Consumer Choices, Support Drops Off

Congress passed legislation incentivizing electric vehicle makers to manufacture their cars in the U.S., using U.S.-sourced parts and materials. Many auto manufacturers are pushing back on these requirements because of the vast supply of materials available in China. Should Congress hold firm on the requirements to boost U.S. base material production, or loosen the standards to allow the use of more materials from abroad?

HOLD FIRM 59% **LOOSEN 16%** **DON'T KNOW 25%**

Would you be more likely to buy an electric vehicle if you knew the parts and materials used for that vehicle all came from the U.S. vs. China?

YES 52% **NO 29%** **DON'T KNOW 20%**



COMMUNICATIONS MESSAGING

Path Forward



Made in America should also be Mined in America. The *status quo* for mine permitting is no longer an option – these minerals will come from somewhere and we have them here in the U.S.



It is simply too difficult to permit a mine here in the U.S. – other countries are taking action and this administration is cheering them on from the sidelines



For those who care about our environment and human rights, made in America should also be mined in America, where we know production will be done in accordance with the world's highest environmental, labor and safety standards



There are some who are seeking to further complicate our permitting process under the false promise of modernizing today's mining laws. Make no mistake: duplicating existing, strong environmental laws is only obstruction



The mining industry has long acknowledged specific areas for potential compromise in the General Mining Law, such as in the area of royalties



Now, at a time of historic mineral import dependence and exponentially increasing mineral demands, is not the time to unnecessarily dismantle the laws and regulations that govern mining in the United States

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