119TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT 119–386

MINING REGULATORY CLARITY ACT

NOVEMBER 25, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. WESTERMAN, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1366]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1366) to provide for the location of multiple hardrock mining mill sites, to establish the Abandoned Hardrock Mine Fund, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mining Regulatory Clarity Act".

SEC. 2. HARDROCK MINING MILL SITES.

(a) MULTIPLE MILL SITES.—Section 2337 of the Revised Statutes of the United States (30 U.S.C. 42) is amended by adding at the end the following:

"(c) ADDITIONAL MILL SITES.—

"(1) DEFINITIONS.—In this subsection:

"(A) MILL SITE.—The term 'mill site' means a location of public land that is reasonably necessary for waste rock or tailings disposal or other operations reasonably incident to mineral development on, or production from land included in a plan of operations.

"(B) OPERATIONS; OPERATOR.—The terms 'operations' and 'operator' have the meanings given those terms in section 3809.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

"(C) PLAN OF OPERATIONS.—The term 'plan of operations' means a plan of operations that an operator must submit and the Secretary of the Interior or the Secretary of Agriculture, as applicable, must approve before an operator may begin operations, in accordance with, as applicable—

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"(i) subpart 3809 of title 43, Code of Federal Regulations (or successor regulations establishing application and approval requirements); and

"(ii) part 228 of title 36, Code of Federal Regulations (or successor regulations establishing application and approval requirements).

"(D) PUBLIC LAND.—The term 'public land' means land owned by the United States that is open to location under sections 2319 through 2344 of the Revised Statutes of the United States (30 U.S.C. 22 et seq.), including—

"(i) land that is mineral-in-character (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection));

"(ii) nonmineral land (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection)); and

"(iii) land where the mineral character has not been determined.

"(2) IN GENERAL.—Notwithstanding subsections (a) and (b), where public land is needed by the proprietor of a lode or placer claim for operations in connection with any lode or placer claim within the proposed plan of operations, the proprietor may—

"(A) locate and include within the plan of operations as many mill site claims under this subsection as are reasonably necessary for its operations; and

"(B) use or occupy public land in accordance with an approved plan of operations.

"(3) MILL SITES CONVEY NO MINERAL RIGHTS.—A mill site under this subsection does not convey mineral rights to the locator.

"(4) SIZE OF MILL SITES.—A location of a single mill site under this subsection shall not exceed 5 acres.

"(5) MILL SITE AND LODE OR PLACER CLAIMS ON SAME TRACTS OF PUBLIC LAND.—A mill site may be located under this subsection on a tract of public land on which the claimant or operator maintains a previously located lode or placer claim.

"(6) EFFECT ON MINING CLAIMS.—The location of a mill site under this subsection shall not affect the validity of any lode or placer claim, or any rights associated with such a claim.

"(7) PATENTING.—A mill site under this section shall not be eligible for patenting.

"(8) SAVINGS PROVISIONS.—Nothing in this subsection—

"(A) diminishes any right (including a right of entry, use, or occupancy) of a claimant;

"(B) creates or increases any right (including a right of exploration, entry, use, or occupancy) of a claimant on land that is not open to location under the general mining laws;

"(C) modifies any provision of law or any prior administrative action withdrawing land from location or entry;

"(D) limits the right of the Federal Government to regulate mining and mining-related activities (including requiring claim validity examinations to establish the discovery of a valuable mineral deposit) in areas withdrawn from mining, including under—

"(i) the general mining laws;

"(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(iii) the Wilderness Act (16 U.S.C. 1131 et seq.);

"(iv) sections 100731 through 100737 of title 54, United States Code;

"(v) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(vi) division A of subtitle III of title 54, United States Code (commonly referred to as the 'National Historic Preservation Act'); or

"(vii) section 4 of the Act of July 23, 1955 (commonly known as the 'Surface Resources Act of 1955') (69 Stat. 368, chapter 375; 30 U.S.C. 612);

"(E) restores any right (including a right of entry, use, or occupancy, or right to conduct operations) of a claimant that—

"(i) existed prior to the date on which the land was closed to, or withdrawn from, location under the general mining laws; and

"(ii) that has been extinguished by such closure or withdrawal; or

"(F) modifies section 404 of division E of the Consolidated Appropriations Act, 2024 (Public Law 118–42).".

(b) ABANDONED HARDROCK MINE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account, to be known as the "Abandoned Hardrock Mine Fund" (referred to in this subsection as the "Fund").

(2) SOURCE OF DEPOSITS.—Any amounts collected by the Secretary of the Interior pursuant to the claim maintenance fee under section 10101(a)(1) of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f(a)(1)) on mill sites located under subsection (c) of section 2337 of the Revised Statutes of the United States (30 U.S.C. 42) shall be deposited into the Fund.

(3) USE.—The Secretary of the Interior may make expenditures from amounts available in the Fund, without further appropriations, only to carry out section 40704 of the Infrastructure Investment and Jobs Act (30 U.S.C. 1245).

(4) ALLOCATION OF FUNDS.—Amounts made available under paragraph (3)—

(A) shall be allocated in accordance with section 40704(e)(1) of the Infrastructure Investment and Jobs Act (30 U.S.C. 1245(e)(1)); and

(B) may be transferred in accordance with section 40704(e)(2) of that Act (30 U.S.C. 1245(e)(2)).

(c) CLERICAL AMENDMENTS.—Section 10101 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f) is amended—

(1) by striking "the Mining Law of 1872 (30 U.S.C. 28–28e)" each place it appears and inserting "sections 2319 through 2344 of the Revised Statutes of the United States (30 U.S.C. 22 et seq.)";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) in the second sentence, by striking "Such claim maintenance fee" and inserting the following:

"(B) FEE.—The claim maintenance fee under subparagraph (A)"; and

(ii) in the first sentence, by striking "The holder of" and inserting the following:

"(A) IN GENERAL.—The holder of"; and

(B) in paragraph (2)—

(i) in the second sentence, by striking "Such claim maintenance fee" and inserting the following:

"(B) FEE.—The claim maintenance fee under subparagraph (A)"; and

(ii) in the first sentence, by striking "The holder of" and inserting the following:

"(A) IN GENERAL.—The holder of"; and

(3) in subsection (b)—

(A) in the second sentence, by striking "The location fee" and inserting the following:

"(2) FEE.—The location fee"; and

(B) in the first sentence, by striking "The claim main tenance fee" and inserting the following:

"(1) IN GENERAL.—The claim maintenance fee".

PURPOSE OF THE LEGISLATION

The purpose of H.R. 1366 is to provide for the location of multiple hardrock mining mill sites, to establish the Abandoned Hardrock Mine Fund, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In May 2022, the U.S. Court of Appeals for the Ninth Circuit affirmed a lower court decision revoking the approved mine plan of operation for the Rosemont Copper Mine Project, which is partially located within the Coronado National Forest in Pima County, Arizona.[1] The Center for Biological Diversity and other special interest groups challenged the Rosemont mine plan, focusing on whether the U.S. Forest Service (USFS) could approve ancillary uses (in this case, discarding waste rock) without first verifying the validity of the underlying mining claims. The Ninth Circuit's *Rosemont* decision requires USFS to establish claim validity *prior* to approvals

[1] *Ctr. for Biological Diversity v. U.S. Fish & Wildlife Serv.*, 33 F.4th 1202 (9th Cir. 2022).

of ancillary use facilities on mining claims.[2] This new requirement upends more than 40 years of mining regulatory precedent and over a century of interpretation of the General Mining Law of 1872.[3] It also ignores specific USFS regulations that allow approvals of operations "on or off a mining claim," so long as those operations meet environmental and regulatory standards.[4]

Sponsored by Representative Mark Amodei (R–NV–02), H.R. 1366 is not targeted at any single mining site but instead seeks to restore the longstanding certainty needed for mine operations across the nation. This bill would allow the U.S. to meet the extraordinary mineral demand required for domestic manufacturing, energy, and infrastructure needs, which are vital to our economy and national security. It does this by creating a new category of mill sites to ensure that operators can use federal lands, whether mineral or non-mineral in character, for activities ancillary to mining.

The legislation also creates the "Abandoned Hardrock Mine Fund" (Fund), which would support the abandoned hardrock mine reclamation program (Program) created under section 40704 of the Infrastructure Investment and Jobs Act.[5] The Program was created to inventory, assess, decommission, reclaim, respond to hazardous substance releases on, and remediate abandoned hardrock mine lands. The Fund would obtain solvency from claim-maintenance fees paid on the new mill site claims created by the legislation.

COMMITTEE ACTION

H.R. 1366 was introduced on February 14, 2025, by Representative Mark Amodei (R–NV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On September 3, 2025, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On September 17, 2025, the Committee on Natural Resources met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of H.R. 1366 by unanimous consent. Representative Mark Amodei (R–NV) offered an Amendment in the Nature of a Substitute designated Amodei_020 ANS. The Amendment in the Nature of a Substitute was agreed to by voice vote. Ranking Member Jared Huffman (D–CA) offered an amendment to the Amendment in the Nature of a Substitute designated Huffman #3. The amendment was not agreed to by voice vote. Representative Yassamin Ansari (D–AZ) offered an amendment to the Amendment in the Nature of a Substitute designated Lee #1. The amendment was not agreed to by a roll call vote of 17 yeas to 25 nays, as follows:

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[2] *Id.*

[3] Sess. 2, ch. 152, 17 Stat. 91–96.

[4] 36 CFR Subpart A—Subpart A—Locatable Minerals. https://www.law.cornell.edu/cfr/text/36/part-228/subpart-A.

[5] 30 U.S.C. 1245.

Committee on Natural Resources
U.S. House of Representatives
119th Congress

Date: Sepmteber 17, 2025

Recorded Vote #: 5

Meeting on / Amendment on: **Lee #1 amendment, offered by Rep. Ansari, to Amodei_020 ANS** to H.R. 1366 (Rep. Amodei), *"Mining Regulatory Clarity Act of 2025"*

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		*Mr. Huffman, CA*	X		
Mr. Wittman, VA		X		*Mr. Neguse, CO*			
Mr. McClintock, CA		X		*Ms. Leger Fernandez, NM*	X		
Mr. Gosar, AZ		X		*Ms. Stansbury, NM*	X		
Mrs. Radewagen, AS		X		*Ms. Hoyle, OR*	X		
Mr. LaMalfa, CA		X		*Mr. Magaziner, RI*	X		
Mr. Webster, FL		X		*Mr. Golden, ME*		X	
Mr. Fulcher, ID		X		*Mr. Min, CA*	X		
Mr. Stauber, MN		X		*Ms. Dexter, OR*	X		
Mr. Tiffany, WI		X		*Mr. Hernández, PR*	X		
Ms. Boebert, CO		X		*Ms. Randall, WA*	X		
Mr. Bentz, OR		X		*Ms. Ansari, AZ*	X		
Ms. Kiggans, VA		X		*Ms. Elfreth, MD*	X		
Mr. Hunt, TX		X		*Mr. Gray, CA*			
Mr. Collins, GA		X		*Ms. Rivas, CA*	X		
Ms. Hageman, WY		X		*Ms. Velázquez, NY*	X		
Mr. Amodei, NV				*Mrs. Dingell, MI*	X		
Mr. Walberg, MI		X		*Mr. Soto, FL*	X		
Mr. Ezell, MS		X		*Ms. Brownley, CA*	X		
Ms. Maloy, UT		X		*Ms. Lee, NV*	X		
Mr. McDowell, NC		X					
Mr. Crank, CO		X					
Mr. Begich, AK		X					
Mr. Hurd, CO		X					
Mr. Kennedy, UT		X		TOTAL:	17	25	

Representative Yassamin Ansari (D–AZ) offered an amendment to the Amendment in the Nature of a Substitute designated Huffman #2. The amendment was withdrawn. The bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 25 yeas to 17 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
119th Congress

Date: September 17, 2025

Recorded Vote #: 6

Meeting on / Amendment on: **On Favorably Reporting, as amended, H.R. 1366 (Rep. Amodei), *"Mining Regulatory Clarity Act of 2025"***

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman	X			*Mr. Huffman, CA*		X	
Mr. Wittman, VA	X			*Mr. Neguse, CO*			
Mr. McClintock, CA	X			*Ms. Leger Fernandez, NM*		X	
Mr. Gosar, AZ	X			*Ms. Stansbury, NM*		X	
Mrs. Radewagen, AS	X			*Ms. Hoyle, OR*		X	
Mr. LaMalfa, CA	X			*Mr. Magaziner, RI*		X	
Mr. Webster, FL	X			*Mr. Golden, ME*	X		
Mr. Fulcher, ID	X			*Mr. Min, CA*		X	
Mr. Stauber, MN	X			*Ms. Dexter, OR*		X	
Mr. Tiffany, WI	X			*Mr. Hernández, PR*		X	
Ms. Boebert, CO	X			*Ms. Randall, WA*		X	
Mr. Bentz, OR	X			*Ms. Ansari, AZ*		X	
Ms. Kiggans, VA	X			*Ms. Elfreth, MD*		X	
Mr. Hunt, TX	X			*Mr. Gray, CA*			
Mr. Collins, GA	X			*Ms. Rivas, CA*		X	
Ms. Hageman, WY	X			*Ms. Velázquez, NY*		X	
Mr. Amodei, NV				*Mrs. Dingell, MI*		X	
Mr. Walberg, MI	X			*Mr. Soto, FL.*		X	
Mr. Ezell, MS	X			*Ms. Brownley, CA*		X	
Ms. Maloy, UT	X			*Ms. Lee, NV*		X	
Mr. McDowell, NC	X						
Mr. Crank, CO	X						
Mr. Begich, AK	X						
Mr. Hurd, CO	X						
Mr. Kennedy, UT	X			TOTAL:	25	17	

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on September 3, 2025.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 designates this bill as the "Mining Regulatory Clarity Act."

Section 2. Hardrock Mining Mill Sites

Section 2 amends the General Mining Law of 1872 by allowing operators to stage as many additional mill sites as are reasonably necessary for its operations, pending an approved plan of operations. This section stipulates the size of the mill sites and allows them to be located regardless of mineral validity.

Section 2 also establishes in the Treasury of the United States the Abandoned Hardrock Mine Fund (Fund). The Fund would be comprised of money from claim-maintenance fees from the new mill site claims created under the bill. The Secretary of the Interior would be required to use these funds to conduct abandoned hardrock mine reclamation.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

PERFORMANCE GOALS AND OBJECTIVES

As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide for the location of multiple hardrock mining mill sites, to establish the Abandoned Hardrock Mine Fund, and for other purposes.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to the Congressional Budget Act of 1974.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

The Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

SECTION 2337 OF THE REVISED STATUTES OF THE UNITED STATES

SEC. 2337. (a) Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

(b) Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall he made at the rate applicable to placer claims which do not include a vein or lode.

(c) ADDITIONAL MILL SITES.—

(1) DEFINITIONS.—In this subsection:

(A) MILL SITE.—The term "mill site" means a location of public land that is reasonably necessary for waste rock or tailings disposal or other operations reasonably incident to mineral development on, or production from land included in a plan of operations.

(B) OPERATIONS; OPERATOR.—The terms "operations" and "operator" have the meanings given those terms in section 3809.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

(C) PLAN OF OPERATIONS.—The term "plan of operations" means a plan of operations that an operator must submit and the Secretary of the Interior or the Secretary of Agriculture, as applicable, must approve before an operator may begin operations, in accordance with, as applicable—

(i) subpart 3809 of title 43, Code of Federal Regulations (or successor regulations establishing application and approval requirements); and

(ii) part 228 of title 36, Code of Federal Regulations (or successor regulations establishing application and approval requirements).

(D) PUBLIC LAND.—The term "public land" means land owned by the United States that is open to location under sections 2319 through 2344 of the Revised Statutes of the United States (30 U.S.C. 22 et seq.), including—

(i) land that is mineral-in-character (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection));

(ii) nonmineral land (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection)); and

(iii) land where the mineral character has not been determined.

(2) IN GENERAL.—Notwithstanding subsections (a) and (b), where public land is needed by the proprietor of a lode or placer claim for operations in connection with any lode or placer claim within the proposed plan of operations, the proprietor may—

(A) locate and include within the plan of operations as many mill site claims under this subsection as are reasonably necessary for its operations; and

(B) use or occupy public land in accordance with an approved plan of operations.

(3) MILL SITES CONVEY NO MINERAL RIGHTS.—A mill site under this subsection does not convey mineral rights to the locator.

(4) SIZE OF MILL SITES.—A location of a single mill site under this subsection shall not exceed 5 acres.

(5) MILL SITE AND LODE OR PLACER CLAIMS ON SAME TRACTS OF PUBLIC LAND.—A mill site may be located under this subsection on a tract of public land on which the claimant or operator maintains a previously located lode or placer claim.

(6) EFFECT ON MINING CLAIMS.—The location of a mill site under this subsection shall not affect the validity of any lode or placer claim, or any rights associated with such a claim.

(7) PATENTING.—A mill site under this section shall not be eligible for patenting.

(8) SAVINGS PROVISIONS.—Nothing in this subsection—

(A) diminishes any right (including a right of entry, use, or occupancy) of a claimant;

(B) creates or increases any right (including a right of exploration, entry, use, or occupancy) of a claimant on land that is not open to location under the general mining laws;

(C) modifies any provision of law or any prior administrative action withdrawing land from location or entry;

(D) limits the right of the Federal Government to regulate mining and mining-related activities (including requiring claim validity examinations to establish the discovery of a valuable mineral deposit) in areas withdrawn from mining, including under—

(i) the general mining laws;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(iii) the Wilderness Act (16 U.S.C. 1131 et seq.);

(iv) sections 100731 through 100737 of title 54, United States Code;

(v) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(vi) division A of subtitle III of title 54, United States Code (commonly referred to as the 'National Historic Preservation Act'); or

(vii) section 4 of the Act of July 23, 1955 (commonly known as the "Surface Resources Act of 1955") (69 Stat. 368, chapter 375; 30 U.S.C. 612);

(E) restores any right (including a right of entry, use, or occupancy, or right to conduct operations) of a claimant that—

(i) existed prior to the date on which the land was closed to, or withdrawn from, location under the general mining laws; and

(ii) that has been extinguished by such closure or withdrawal; or

(F) modifies section 404 of division E of the Consolidated Appropriations Act, 2024 (Public Law 118–42).

OMNIBUS BUDGET RECONCILIATION ACT OF 1993

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TITLE X—NATURAL RESOURCE PROVISIONS

* * * * * * *

Subtitle B—Hardrock Mining Claim Maintenance Fee

SEC. 10101. FEE.

(a) CLAIM MAINTENANCE FEE.—

(1) LODE MINING CLAIMS, MILL SITES, AND TUNNEL SITES.—

(A) IN GENERAL.—The holder of each unpatented lode mining claim, mill site, or tunnel site, located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, to the extent provided in advance in appropriations Acts, a claim maintenance fee of $100 per claim or site, respectively. ⟦Such claim maintenance fee⟧

(B) FEE.—The claim maintenance fee under subparagraph (A) shall be in lieu of the assessment work requirement contained in ⟦the Mining Law of 1872 (30 U.S.C. 28–28e)⟧ *sections 2319 through 2344 of the Revised Statutes of the United States (30 U.S.C. 22 et seq.)* and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

(2) PLACER MINING CLAIMS.—

(A) IN GENERAL.—The holder of each unpatented placer mining claim located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, the claim maintenance fee described in subsection (a)(1), for each 20 acres of the placer claim or portion thereof. ⟦Such claim maintenance fee⟧

(B) FEE.—The claim maintenance fee under subparagraph (A) shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 to 28e) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(b) TIME OF PAYMENT.—⟦The claim main tenance fee⟧

(1) IN GENERAL.—The claim maintenance fee under subsection (a) shall be paid for the year in which the location is

made, at the time the location notice is recorded with the Bureau of Land Management. [The location fee]

(2) FEE.—The location fee imposed under section 10102 shall be payable not later than 90 days after the date of location.

(c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(d) WAIVER.—(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under [the Mining Law of 1872 (30 U.S.C. 28–28e)] *sections 2319 through 2344 of the Revised Statutes of the United States (30 U.S.C. 22 et seq.)* to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term "related party" means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(3) If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such defect or defects, or (B) pay the $100 claim maintenance fee due for such period.

* * * * * * *

DISSENTING VIEWS

H.R. 1366, the Mining Regulatory Clarity Act, would allow mining companies to claim an unlimited number of adjacent five-acre parcels of public land as mill sites to be used to support mining activities like processing and tailings storage. This bill would codify the mining industry's priority right to as much public land as the industry wants, for as long as the industry wants it. H.R. 1366 could also give mining operators further statutory rights to priority usage of unclaimed public lands.

The mining industry argues this legislation is necessary to clarify how mines may use public lands following the 2022 "Rosemont decision". In 2022, the Ninth Circuit Court of Appeals ruled that the Rosemont copper mine in southeastern Arizona could not dump its mining waste on an invalid mining claim in the Coronado National Forest. Initially, the Forest Service had assumed that the Rosemont Copper Company had valid mining claims where it planned to dump its waste. However, the court found those waste-dump claims invalid because they had not been shown to contain valuable minerals. Under the Mining Law of 1872, a mining claim is only considered "valid" when it contains valuable minerals, and only valid claims grant the claim holder broad rights to public lands under the mining law. The court reasoned that a company wouldn't use an area with a valuable mineral deposit as a waste dump and, therefore, that the company could not have a valid mining claim on the proposed waste site.

The mining industry argues they need the "fix" in this bill because the Rosemont decision has limited their ability to use mining claims for important "ancillary uses," like dumping toxic waste on public lands. Mining claims come with certain benefits, including automatic priority use of public lands. Without a valid mining claim for those ancillary uses, a company can still request to use the public land as a waste dump; however, it must undergo the same multiple-use balancing determinations as other uses of public lands and may be less likely to be approved. There are also other methods for procuring land adjacent to a mine to use as a mining waste storage area, such as land swaps or buying private land, but the mining industry vastly prefers to use mining claims (or mill sites, described below) due to their ease and affordability.

In 2023, the Department of the Interior Solicitor under President Biden issued an opinion referencing the many other options for procuring land for mining waste under current law, including mill sites. Mill sites were established under the Mining Law of 1872 to address this exact issue, allowing miners to use non-mineral lands adjacent to their mining claims for ancillary activities. However, the mining law specifies that mill sites must be land that is non-mineral in character, which can be difficult and expensive to prove, and does not specify how many five-acre mill sites are allowed per twenty-acre mining claim. A 1997 DOI policy limiting mill sites to one per claim sparked a long-running disagreement over the allowable number of mill sites, which appears to be settled now after a 2024 D.C. Circuit Court ruling that allows unlimited mill sites, although they need to be non-mineral in character, as defined by the Mining Law of 1872.[1] Furthermore, the Rosemont mine has since bought private land to use for its mining waste, and other mines have located mill sites for ancillary uses in their mining plans of operations.

Nonetheless, the mining industry continues to push for a "legislative fix." The industry argues that legislation would provide certainty for mining and mineral exploration, but there's no evidence that any mines are currently being challenged because their use of mining claims or mill sites is being questioned.

The legislation would alter mill sites instead of directly changing the law on mining claims; specifically, it would allow mill sites on any public land—not just non-mineral lands—and would codify the D.C. Circuit Court's ruling allowing for unlimited millsites for ancillary activities. It would also direct claim maintenance fees from millsites to the Abandoned Hardrock Mine Reclamation Fund established in the Infrastructure Investment and Jobs Act.

Concerningly, H.R. 1366 defines mining operations in a way that significantly expands mining companies' rights on public lands. The bill uses the current regulatory definition of mining 'operations': "all functions, work, facilities, and activities in connection with the prospecting, development, extraction, and processing of mineral deposits and all uses reasonably incident thereto including the construction and maintenance of means of access [. . .] whether the operations take place on or off the claim" (emphasis added). Effectively, this definition would mean that mining operators would not need a mining claim to conduct operations on public lands.

Although this definition is currently in regulation, giving the term the full weight of statute and Congressional approval would further prioritize mining over other uses of public lands. While BLM and the Forest Service have traditionally held that they do not have the authority to deny a mine under the Mining Law of 1872, they have greater discretion to approve or deny rights-of-way for roads, electrical lines, water pipelines, and other related facilities. The previous Trump administration argued that mining companies do not even need a mining claim, much less proof of a valid claim, to be allowed to conduct mining operations or ancillary activities on open public lands without undergoing multiple-use balancing under the Federal Land Policy and Management Act (FLPMA)—effectively arguing against any discretion.[2] Codifying this definition of operations would codify this interpretation of the Mining Law.

Additionally, the retention of a savings clause from the 118th Congress's version of the Mining Regulatory Clarity Act further calls into question the drafters' intentions. Although the 119th version does not focus on claim validity, it retains a clause speci-

[1] *See* D.C. Circuit Review—Reviewed: Meanwhile in the D.C. Circuit, *Yale Journal on Regulation*, Jul. 1, 2024.
[2] DOI Office of the Solicitor, "Authorization of Reasonably Incident Mining Uses on Lands Open to the Operation of the Mining law of 1872v" (M–37057), Aug. 17, 2020.

fying that nothing in this bill "limits the right of the Federal Government to regulate mining and mining-related activities (including requiring claim validity examinations [. . .]) in areas withdrawn from mining" under the mining laws, FLPMA, the Wilderness Act, the Endangered Species Act, the National Historic Preservation Act, or the Surface Resources Act. Clarifying that this bill does not limit the rights to regulate mining *only* in areas withdrawn from new mining claims reinforces that the bill's definition of operations might limit the federal government's ability to regulate mining under the listed laws *outside* of withdrawn areas.

The House should oppose H.R. 1366.

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