

MINING REGULATORY CLARITY ACT OF 2024

MARCH 7, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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. 2925]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2925) to amend the Omnibus Budget Reconciliation Act of 1993 to provide for security of tenure for use of mining claims for ancillary activities, 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 of 2024”.

SEC. 2. USE OF MINING CLAIMS FOR ANCILLARY ACTIVITIES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f) is amended by adding at the end the following:

“(e) SECURITY OF TENURE.—

“(1) CLAIMANT RIGHTS.—

“(A) DEFINITION OF OPERATIONS.—In this paragraph, the term ‘operations’ means—

“(i) with respect to a locatable mineral, any activity or work carried out in connection with—

“(I) prospecting;

“(II) exploration;

“(III) discovery and assessment;

“(IV) development;

“(V) extraction; or

“(VI) processing;

- “(ii) the reclamation of an area disturbed by an activity described in clause (i); and
 - “(iii) any activity reasonably incident to an activity described in clause (i) or (ii), regardless of whether that incidental activity is carried out on a mining claim, including the construction and maintenance of any road, transmission line, pipeline, or any other necessary infrastructure or means of access on public land for a support facility.
- “(B) RIGHTS TO USE, OCCUPATION, AND OPERATIONS.—A claimant shall have the right to use and occupy to conduct operations on public land, with or without the discovery of a valuable mineral deposit, if—
- “(i) the claimant makes a timely payment of—
 - “(I) the location fee required by section 10102; and
 - “(II) the claim maintenance fee required by subsection (a); or
 - “(ii) in the case of a claimant who qualifies for a waiver of the claim maintenance fee under subsection (d)—
 - “(I) the claimant makes a timely payment of the location fee required by section 10102; and
 - “(II) the claimant complies with the required assessment work under the general mining laws.
- “(2) FULFILLMENT OF FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.—A claimant that fulfills the requirements of this section and section 10102 shall be deemed to satisfy any requirements under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for the payment of fair market value to the United States for the use of public land and resources pursuant to the general mining laws.
- “(3) SAVINGS CLAUSE.—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 lands that are not open to location under the general mining laws;
 - “(C) modifies any provision of law or any prior administrative action withdrawing lands 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 (commonly referred to as the ‘Mining in the Parks Act’);
 - “(v) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
 - “(vi) division A of subtitle III of title 54, United States Code (commonly referred to as the ‘National Historic Preservation Act’)); or
 - “(E) restores any right (including a right of entry, use, or occupancy, or right to conduct operations) of a claimant that existed prior to the date that the lands were closed to or withdrawn from location under the general mining laws and that has been extinguished by such closure or withdrawal.”.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 2925 is to amend the Omnibus Budget Reconciliation Act of 1993 to provide for security of tenure for use of mining claims for ancillary activities, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2925 would codify and clarify longstanding precedent regarding mining permitting on federal lands in response to a recent decision from the United States Court of Appeals for the Ninth Circuit, often referred to as the “Rosemont decision.” In May of 2022, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision revoking an approved mine plan for the Rosemont Copper Mine Project, located partially in the Coronado

National Forest in Pima County, Arizona.¹ The Center for Biological Diversity and other environmental groups' challenge to the Rosemont mine plan specifically concerned whether the Forest Service could approve disposal of overburden (waste rock) without first determining the validity of the mining claim that would be used.

The Ninth Circuit's decision in this case limits the ability of the U.S. Forest Service to approve mining support facilities necessary for mining operations. The Rosemont decision requires that U.S. Forest Service approvals of ancillary facilities on mining claims be contingent on such claims being "valid."² This new requirement ignores longstanding precedent and specific U.S. Forest Service regulations that allow approvals of operations "on or off a mining claim" so long as these operations meet environmental and regulatory standards.³ Essentially, this decision requires discovery and determination of a valid mineral deposit, meaning operators must prove the existence of a commercially developable deposit on a claim before a plan of operations that includes usage of the surface of that mining claim (such as for waste rock placements, mills, offices, roads, or transmission lines) can be approved.

The Rosemont decision upended 40 years of mining regulatory precedent and over a century of interpretation of the Mining Law of 1872.⁴ If allowed to stand, the Rosemont decision would impact hardrock mining projects across Western states. The mineral-rich states of Alaska, Arizona, Nevada, Montana, and Idaho are located within the jurisdiction of the Ninth Circuit.⁵

The Department of the Interior (DOI) published a Solicitor's opinion on the issue in May of 2023, which allows some disposal of waste rock in certain circumstances, but the enactment of H.R. 2925 is needed to remedy the uncertainty created by the Rosemont decision for all mines on federal lands going forward.⁶ H.R. 2925 would restore the longstanding interpretation of the Mining Law of 1872 and regulatory requirements for mining approvals on federal lands and provide much-needed certainty in response to the Rosemont decision.

COMMITTEE ACTION

H.R. 2925 was introduced on April 27, 2023, by Rep. 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 January 31, 2024, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On February 6, 2024, 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. 2925 by unanimous consent. Representative Pete Stauber (R–MN) of-

¹ Center for Biological Diversity, 33 F.4th 1202 (9th Cir. 2022).

² *Id.*

³ 36 CFR Subpart A—Subpart A—Locatable Minerals. <https://www.law.cornell.edu/cfr/text/36/part-228/subpart-A>.

⁴ Sess. 2, ch. 152, 17 Stat. 91–96.

⁵ United States Courts for the Ninth Circuit. Circuit Map. <https://www.ca9.uscourts.gov/information/circuit-map/>.

⁶ U.S. Department of the Interior. Office of the Solicitor. Use of Mining Claims for Mining Waste Deposition, and Recission of M–37012 and M–37057. <https://www.doi.gov/sites/doi.gov/files/m-37077-use-of-mining-claims-for-mine-waste-deposition-508.pdf>.

ferred an Amendment in the Nature of a Substitute designated Stauber 043. Ranking Member Raul Grijalva (D-AZ) offered a substitute amendment to the Amendment in the Nature of a Substitute, designated Grijalva #1. The amendment was not agreed to by a roll call vote of 16 yeas to 22 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #1				
Meeting on / Amendment on: Grijalva #1 Substitute ANS to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Naguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X	
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA				Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV		X	
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	16	22	

Representative Jared Huffman (D-CA) offered an amendment to the Amendment in the Nature of a Substitute designated Huffman #1. The amendment was not agreed to by a roll call vote of 17 yeas to 21 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #2				
Meeting on / Amendment on: Huffman #1 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grjajva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Noguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X	
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO				Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA				Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	17	21	

Representative Teresa Leger Fernandez (D-NM) offered an amendment to the Amendment in the Nature of a Substitute designated Leger Fernandez #1. The amendment was not agreed to by a roll call vote of 18 yeas to 21 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #3				
Meeting on / Amendment on: Leger Fernandez #1 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodel), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguss, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Beatz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA				Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	18	21	

Representative Melanie Stansbury (D-NM) offered an amendment to the Amendment in the Nature of a Substitute designated Stansbury #1. The amendment was not agreed to by a roll call vote of 17 yeas to 22 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #4				
Meeting on / Amendment on: Stansbury #1 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X	
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA				Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	17	22	

Ranking Member Raul Grijalva (D-AZ) offered an amendment to the Amendment in the Nature of a Substitute, designated Grijalva #2. The amendment was not agreed to by a roll call vote of 18 yeas to 21 nays, as follows:

Committee on Natural Resources								
U.S. House of Representatives								
118th Congress								
Date: February 6, 2024				Roll Call #5				
Meeting on / Amendment on: Grijalva #2 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodel), "Mining Regulatory Clarity Act of 2023"								
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres	
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X			
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X			
Mr. Wittman, VA				Mr. Sablan, CNMI	X			
Mr. McClintock, CA		X		Mr. Huffman, CA	X			
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X			
Mr. Graves, LA		X		Mr. Neguse, CO	X			
Mrs. Radewagen, AS		X		Mr. Levin, CA	X			
Mr. LaMalfa, CA		X		Ms. Porter, CA	X			
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X			
Ms. González-Colón, PR				Ms. Stansbury, NM	X			
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X			
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X			
Mr. Curtis, UT				Mr. Mullin, CA	X			
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X			
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X			
Mrs. Boebert, CO		X		Ms. Velázquez, NY				
Mr. Bentz, OR		X		Mr. Case, HI				
Ms. Kiggans, VA				Mrs. Dingell, MI	X			
Mr. Moylan, Guam		X		Ms. Lee, NV	X			
Mr. Hunt, TX		X						
Mr. Collins, GA		X						
Ms. Luna, FL		X						
Mr. Duarte, CA		X						
Ms. Hageman, WY		X						
				TOTAL:	18	21		

Ranking Member Raul Grijalva (D-AZ) offered an amendment to the Amendment in the Nature of a Substitute, designated Grijalva #3. The amendment was not agreed to by a roll call vote of 19 yeas to 20 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #6				
Meeting on / Amendment on: Grijalva #3 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguss, CO	X		
Mrs. Raderwagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MI		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA				Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Lee, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL	X						
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	19	20	

Ranking Member Raul Grijalva (D-AZ) offered an amendment to the Amendment in the Nature of a Substitute, designated Grijalva #11. The amendment was not agreed to by a roll call vote of 18 yeas to 21 nays, as follows:

Committee on Natural Resources								
U.S. House of Representatives								
118th Congress								
Date: February 6, 2024				Roll Call #7				
Meeting on / Amendment on: Grijalva #11 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"								
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres	
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X			
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X			
Mr. Wittman, VA				Mr. Sablan, CNMI	X			
Mr. McClintock, CA		X		Mr. Huffman, CA	X			
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X			
Mr. Graves, LA		X		Mr. Neguse, CO	X			
Mrs. Radewagen, AS		X		Mr. Levin, CA	X			
Mr. LaMalfa, CA		X		Ms. Porter, CA	X			
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X			
Ms. González-Colón, PR				Ms. Stansbury, NM	X			
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X			
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X			
Mr. Curtis, UT				Mr. Mullin, CA	X			
Mr. Tiffany, WI		X		Ms. Hoyler, OR	X			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X			
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X			
Mrs. Boebert, CO		X		Ms. Velázquez, NY				
Mr. Bentz, OR		X		Mr. Case, HI				
Ms. Kiggans, VA				Mrs. Dingell, MI	X			
Mr. Moylan, Guam		X		Ms. Lee, NV	X			
Mr. Hunt, TX		X						
Mr. Collins, GA		X						
Ms. Luna, FL		X						
Mr. Duarte, CA		X						
Ms. Hageman, WY		X						
				TOTAL:	18	21		

Ranking Member Raul Grijalva (D-AZ) offered an amendment to the Amendment in the Nature of a Substitute, designated Grijalva #31. The amendment was not agreed to by a roll call vote of 19 yeas to 21 nays, as follows:

Committee on Natural Resources								
U.S. House of Representatives								
118th Congress								
Date: February 6, 2024				Roll Call #8				
Meeting on / Amendment on: Grijalva #31 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"								
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres	
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X			
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X			
Mr. Wittman, VA				Mr. Sablan, CNMI	X			
Mr. McClintock, CA		X		Mr. Huffman, CA	X			
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X			
Mr. Graves, LA		X		Mr. Negusa, CO	X			
Mrs. Radewagen, AS		X		Mr. Levin, CA	X			
Mr. LaMalfa, CA		X		Ms. Porter, CA	X			
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X			
Ms. González-Colón, PR				Ms. Stansbury, NM	X			
Mr. Fulcher, ID		X		Mrs. Peltola, AK	X			
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X			
Mr. Curtis, UT		X		Mr. Mullin, CA	X			
Mr. Tiffany, WI		X		Ms. Hoyts, OR	X			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X			
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X			
Mrs. Boebert, CO		X		Ms. Velázquez, NY				
Mr. Bentz, OR		X		Mr. Case, HI				
Ms. Kiggans, VA				Mrs. Dingall, MI	X			
Mr. Moylan, Guam		X		Ms. Lee, NV	X			
Mr. Hunt, TX		X						
Mr. Collins, GA		X						
Ms. Luna, FL	X							
Mr. Duarte, CA		X						
Ms. Hageman, WY		X						
				TOTAL:	19	21		

Representative Jared Huffman (D-CA) offered an amendment to the Amendment in the Nature of a Substitute designated Huffman #2. The amendment was not agreed to by a roll call vote of 17 yeas to 23 nays, as follows:

Committee on Natural Resources								
U.S. House of Representatives								
118th Congress								
Date: February 6, 2024				Roll Call #9				
Meeting on / Amendment on: Huffman #2 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"								
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres	
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X			
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X			
Mr. Wittman, VA				Mr. Sablan, CNMI	X			
Mr. McClintock, CA		X		Mr. Huffman, CA	X			
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X			
Mr. Graves, LA		X		Mr. Neguse, CO	X			
Mrs. Raderwagen, AS		X		Mr. Levin, CA	X			
Mr. LaMalfa, CA		X		Ms. Porter, CA	X			
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X			
Ms. González-Colón, PR				Ms. Stansbury, NM	X			
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X			
Mr. Curtis, UT		X		Mr. Mullin, CA	X			
Mr. Tiffany, WI		X		Ms. Hoyts, OR	X			
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X			
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X			
Mrs. Boebert, CO		X		Ms. Velázquez, NY				
Mr. Bentz, OR		X		Mr. Case, HI				
Ms. Kiggans, VA				Mrs. Dingell, MI	X			
Mr. Moylan, Guam		X		Ms. Lee, NV	X			
Mr. Hunt, TX		X						
Mr. Collins, GA		X						
Ms. Luna, FL		X						
Mr. Duarte, CA		X						
Ms. Hageman, WY		X						
				TOTAL:	17	23		

Representative Melanie Stansbury (D-NM) offered an amendment to the Amendment in the Nature of a Substitute designated Stansbury #2. The amendment was not agreed to by a roll call vote of 18 yeas to 23 nays, as follows:

Representative Seth Magaziner (D-RI) offered an amendment to the Amendment in the Nature of a Substitute designated Magaziner #12. The amendment was not agreed to by a roll call vote of 17 yeas to 24 nays, as follows:

Committee on Natural Resources							
U.S. House of Representatives							
118th Congress							
Date: February 6, 2024			Roll Call #11				
Meeting on / Amendment on: Magaziner #12 amendment to Stauber_043 ANS to H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"							
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA				Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosar, AZ		X		Mr. Gallego, AZ	X		
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR				Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Peltola, AK		X	
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT		X		Mr. Mullin, CA	X		
Mr. Tiffany, WI		X		Ms. Hoyts, OR	X		
Mr. Carl, AL		X		Ms. Kamlager-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI			
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam		X		Ms. Loe, NV	X		
Mr. Hunt, TX		X					
Mr. Collins, GA		X					
Ms. Luna, FL		X					
Mr. Duarte, CA		X					
Ms. Hageman, WY		X					
				TOTAL:	17	24	

The Amendment in the Nature of a Substitute designated Stauber 043 was agreed to by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by roll call vote of 24 yeas to 17 nays, as follows:

Committee on Natural Resources								
U.S. House of Representatives								
118th Congress								
Date: February 6, 2024			Roll Call #12					
Meeting on / Amendment on: On Favorably Reporting, as amended, H.R. 2925 (Rep. Amodei), "Mining Regulatory Clarity Act of 2023"								
MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres	
Mr. Westerman, AR, Chairman	X			Mr. Grijalva, AZ, Ranking			X	
Mr. Lamborn, CO	X			Ms. Napolitano, CA			X	
Mr. Wittman, VA				Mr. Sablan, CNMI			X	
Mr. McClintock, CA	X			Mr. Huffman, CA			X	
Mr. Gosar, AZ	X			Mr. Gallego, AZ			X	
Mr. Graves, LA	X			Mr. Noguse, CO			X	
Mrs. Radewagen, AS	X			Mr. Levin, CA			X	
Mr. LaMalfa, CA	X			Ms. Porter, CA			X	
Mr. Webster, FL	X			Ms. Leger Fernandez, NM			X	
Ms. González-Colón, PR				Ms. Stansbury, NM			X	
Mr. Fulcher, ID	X			Mrs. Peltola, AK	X			
Mr. Stauber, MN	X			Mr. Ocasio-Cortez, NY			X	
Mr. Curtis, UT	X			Mr. Mullin, CA			X	
Mr. Tiffany, WI	X			Ms. Hoyle, OR			X	
Mr. Carl, AL	X			Ms. Kamlager-Dove, CA			X	
Mr. Rosendale, MT	X			Mr. Magaziner, RI			X	
Mrs. Boebert, CO	X			Ms. Velázquez, NY				
Mr. Bentz, OR	X			Mr. Case, HI				
Ms. Kiggans, VA	X			Mrs. Dingell, MI			X	
Mr. Moylan, Guam	X			Ms. Lee, NV			X	
Mr. Hunt, TX	X							
Mr. Collins, GA	X							
Ms. Luna, FL	X							
Mr. Duarte, CA	X							
Ms. Hageman, WY	X							
				TOTAL:	24	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 January 31, 2024.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “Mining Regulatory Clarity Act of 2024.”

Section 2. Use of Mine claims for ancillary activities

Section 2 amends Section 10101 of the Omnibus Budget Reconciliation Act of 1993 to allow mine operations to use, occupy, and conduct operations (including construction of roads and other mining infrastructure activity) on public land regardless of whether a mineral deposit has been discovered on the land so long as the claimant makes timely payments of required claims maintenance fees.

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.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 2925, Mining Regulatory Clarity Act of 2023			
As ordered reported by the House Committee on Natural Resources on February 6, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and zero.			

H.R. 2925 would expand the rights of hardrock mining claimants on federal land. Under the bill, claimants would have the right to use and occupy public land without having first discovered a valuable mineral deposit so long as they make timely payments of the required fees to stake and maintain their claim. Under current law, some claimants can have those fees waived, but the bill would not limit claimants mining rights if they received such a waiver. H.R. 2925 also would allow claimants to complete activities on unclaimed public land if the activity is associated with mining operations on claimed land.

Background: The General Mining Act of 1872 allows individuals and commercial entities to prospect for hardrock (or nonfuel) minerals, such as gold, silver, and copper, on land in the public domain (primarily, federal land in western states). When miners make a discovery, they can locate, or stake, a claim, which gives them the right to mine, extract, and process those materials.

Under current law, those individuals and entities must pay an annual maintenance fee of \$165 per claim (which is adjusted over time to account for inflation) to the Department of the Interior (DOI), unless those fees are waived. However, the claimant is required to discover a physical exposure of the mineral deposits within the claim boundaries to have valid rights on that mineral. Without a discovery that solidifies those mining rights, the claimant loses the mining claim if the federal land is withdrawn from mining activities.

Federal costs: By removing the requirement to have first discovered minerals on the land to receive mining rights, H.R. 2925 would allow claimants who have not yet discovered minerals on the land to preserve their right to explore, discover, and develop minerals if the land where their mining claim is located is later withdrawn from being eligible for mining.

CBO is aware of two current proposals to withdraw federal land from mining that would affect unconsolidated mining claims: 3,700 acres in the Hassayampa River corridor in Arizona, and 221,000 acres in the Thompson Divide in Colorado. According to DOI, those two areas have a total of about 1,100 unconsolidated mining claims.

Under H.R. 2925, if those areas are withdrawn from mining, those unconsolidated claims would remain active, and CBO expects they would continue to pay annual maintenance fees. Currently, those fees total about \$200,000 a year. The receipts from those fees are classified in the budget as discretionary offsetting collections; that is, as a reduction in discretionary spending. Spending of those collections is subject to annual appropriation. Assuming appropriation of those future collections, CBO estimates that the additional amounts collected under the bill would be spent soon thereafter so that the net effect on discretionary spending would be negligible.

The CBO staff contact for this estimate is Lilia Ledezma. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *General 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 amend the Omnibus Budget Reconciliation Act of

1993 to provide for security of tenure for use of mining claims for ancillary activities, and for other purposes.

EARMARK STATEMENT

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

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 2925 contains no unfunded mandates as defined in 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 (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

OMNIBUS BUDGET RECONCILIATION ACT OF 1993

* * * * *

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.—**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 shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) 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)).

(2) **PLACER MINING CLAIMS.—**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 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 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 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) 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.

(e) *SECURITY OF TENURE.*—

(1) *CLAIMANT RIGHTS.*—

(A) *DEFINITION OF OPERATIONS.*—*In this paragraph, the term “operations” means—*

(i) *with respect to a locatable mineral, any activity or work carried out in connection with—*

- (I) *prospecting;*
- (II) *exploration;*
- (III) *discovery and assessment;*
- (IV) *development;*
- (V) *extraction; or*
- (VI) *processing;*

(ii) *the reclamation of an area disturbed by an activity described in clause (i); and*

(iii) *any activity reasonably incident to an activity described in clause (i) or (ii), regardless of whether that incidental activity is carried out on a mining claim, including the construction and maintenance of any road, transmission line, pipeline, or any other necessary infrastructure or means of access on public land for a support facility.*

(B) *RIGHTS TO USE, OCCUPATION, AND OPERATIONS.*—*A claimant shall have the right to use and occupy to conduct operations on public land, with or without the discovery of a valuable mineral deposit, if—*

(i) *the claimant makes a timely payment of—*

(I) *the location fee required by section 10102;*
and

(II) *the claim maintenance fee required by subsection (a); or*

(ii) *in the case of a claimant who qualifies for a waiver of the claim maintenance fee under subsection (d)—*

(I) *the claimant makes a timely payment of the location fee required by section 10102; and*

(II) *the claimant complies with the required assessment work under the general mining laws.*

(2) *FULFILLMENT OF FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.*—*A claimant that fulfills the requirements of this section and section 10102 shall be deemed to satisfy any requirements under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for the payment of fair mar-*

ket value to the United States for the use of public land and resources pursuant to the general mining laws.

(3) SAVINGS CLAUSE.—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 lands that are not open to location under the general mining laws;

(C) modifies any provision of law or any prior administrative action withdrawing lands 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 (commonly referred to as the “Mining in the Parks Act”);

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

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

(E) restores any right (including a right of entry, use, or occupancy, or right to conduct operations) of a claimant that existed prior to the date that the lands were closed to or withdrawn from location under the general mining laws and that has been extinguished by such closure or withdrawal.

* * * * *

DISSENTING VIEWS

This legislation would undermine the entirety of public lands management, tipping the scale even further in the mining industry's favor. H.R. 2925 would remove the requirement for a "valuable mineral discovery" before a mining claim can be considered valid under the 1872 Mining Law.

The valuable mineral discovery requirement, otherwise known as the validity test, requires a mining company to prove there is a valuable mineral deposit underneath their claim before obtaining exclusive rights to occupy and mine that land. This validity test is the only limited guardrail the federal government has on mining claims under the nation's antiquated mining law. Without the validity test, any American citizen or company—or American subsidiary of a foreign-owned company—could permanently lock up almost any public land for negligible fees and then conduct whatever "mining-related activities" they so choose, including burying the land in toxic mining waste.

In addition, bad actors could easily exploit the broad language of this bill to claim the rights to public lands with no genuine intention to mine, and the federal government would have virtually no ability to invalidate those nuisance claims. There would be no recourse for other public land users, including for conservation, recreation, renewable energy development, and even actual mining.

Hardrock mining, or the extraction of minerals such as gold, silver, copper, uranium, and lithium, is the U.S.'s number one source of toxic pollution.¹ Yet, the industry operates under the long-outdated Mining Law of 1872, which contains no environmental or community protections. The law is a relic irrelevant to modern mining, but it remains almost entirely unchanged since it was enacted more than 150 years ago.

The General Mining Law of 1872 (Mining Law) codified state and local mining customs, laws, and regulations that developed during the California gold rush of 1848/1849.² The Mining Law granted generous rights to miners on public lands, including giving mining priority over *all other potential uses* of public lands, with mining as the "highest and best use" unless those lands are expressly withdrawn from mining (*e.g.*, national parks, monuments, wilderness areas).

The Mining Law allows miners to "claim" up to 20 acres of federal land for mineral exploration and extraction. To stake a mining claim, any American citizen or company can prospect and locate claims on public lands that are not already withdrawn. Claimants place four stakes in the ground on eligible land and submit their claim and nominal fees to their local county and Bureau of Land

¹"EPA: Metal Mining Most Toxic Industry in America" Earthworks (2006) https://earthworks.org/releases/epa_metal_mining_most_toxic_industry_in_america/.

²John D. Leshy. 1987. *The Mining Law: A Study in Perpetual Motion*.

Management (BLM) office. The cost to register a new claim is \$225 per 20 acres (\$11.25 per acre one-time fee) and then \$165 per 20 acres each year thereafter to maintain the claim (\$8.25 per acre annually). Mining claims are held in perpetuity if the claimant pays its annual fee. Waivers for maintenance fees are available for claimants with ten or fewer mining claims.

A valid mining claim gives the claim holder broad rights to occupy and conduct mining-related operations on a claim, which takes priority over all other potential uses of that public land.³

However, a claim is valid only if it is shown to contain valuable minerals. If the government challenges the validity of the claim, the claimant must demonstrate proof of a valuable mineral deposit; in practice, though, claims have been considered valid unless proven otherwise. To formally invalidate a claim, the agency must go through a long and costly mineral examination to prove there are no minerals present. In most circumstances, a claimant can simply re-claim an area immediately after their original claim is invalidated. Land management agencies have historically treated all claims as valid—and granted the claimants all the rights to that land—unless there was a pressing reason to check the claim’s validity.

When a mining company wants to begin operations, it submits a mining plan of operation to the BLM or the Forest Service for environmental review. Because mining operates outside of the land-use planning process and because the Mining Law grants miners “the exclusive right of possession and enjoyment” of their claim and the minerals it contains,⁴ BLM and the Forest Service cannot deny a mine’s right to operate; they can only require mitigation measures to prevent “unnecessary or undue degradation.”⁵

There are no environmental provisions, tribal consultation, community protection, or permitting requirements in the Mining Law. Hardrock mining activities are covered in part by other federal laws such as the Clean Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; also known as Superfund); the National Environmental Policy Act (NEPA); and the Federal Land Policy and Management Act (FLPMA). BLM and the Forest Service maintain regulations to manage mining activities, but this patchwork of laws and regulations leaves major gaps.^{6,7} BLM’s current mining regulations were written by the Bush Administration in 2001 (which overturned stronger Clinton-era regulations) and are very similar to BLM’s 1980 regulations. Forest Service regulations have not been meaningfully updated since 1974. In 2018, the Trump administration

³“The locators of all mining locations heretofore made [. . .] shall have the exclusive right of possession and enjoyment of all surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth. [. . .] Nothing in this section shall authorize the locator or possessor of a vein or lode [. . .] to enter upon the surface of a claim owned or possessed by another.” Mining Law of 1872, section 2322 (30 USC 24).

⁴30 U.S.C. § 26.

⁵43 U.S.C. § 1732(b).

⁶43 C.F.R. Subpart 3809.

⁷36 C.F.R. Part 228 Subpart A.

began the process of updating the Forest Service regulations but did not complete the work before leaving office.⁸

Unlike coal, oil, and gas, mining companies pay *no royalties* to the federal government for the publicly owned minerals they extract. Multinational mining companies have extracted more than \$300 billion worth of precious metals from public lands without paying a cent in royalties to the American people.⁹

In 2022, the U.S. Court of Appeals for the Ninth Circuit upheld 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 assumed that the Rosemont Copper Company had valid mining claims where it planned to dump its waste. However, the court upheld a lower court's finding of those waste dump claims as invalid because they had not been shown to contain valuable minerals. Furthermore, a company wouldn't use an area with a valuable mineral deposit as a waste dump. The ruling, known as the "Rosemont decision," affirmed that claims without valuable mineral deposits were not valid.

The mining industry argues they need H.R. 2925 as a "fix" because the Rosemont decision limited their ability to use mining claims for important "ancillary uses," like dumping toxic waste on public lands. Without a valid mining claim, a mining company doesn't have automatic priority use of public lands, as they would otherwise. A company could still request to use the public land as a waste dump, but it would have to undergo the same multiple-use balancing determinations as other uses of public lands and be less likely to be approved. There are 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 due to their ease and affordability—they are lucrative handouts.

In 2023, the DOI Solicitor issued an opinion referencing the many other options for procuring land for mining waste under current law. However, the mining industry remains persistent in pushing for a "legislative fix." The mining industry argues that this legislation would provide "certainty" for mining and mineral exploration, but all but one potential Rosemont-related legal challenge to mines being permitted were resolved within days to months. Indeed, within days of the Rosemont decision, the Rosemont mine purchased adjacent private land to use for its mining waste.

Under current law, the valuable mineral requirement is the only guardrail limiting where individuals or companies can hold valid claims on our open public lands. Former DOI Solicitor John Leshy wrote in a letter to the Committee that the plain text of this bill gives anyone who stakes a mining claim the "right to use and occupy public land" for the low price of about \$10 an acre a year.

This bill also creates loopholes for non-mining bad actors. Specifically, "mining-related operations" is defined so broadly that bad ac-

⁸U.S. Forest Service, Advanced notice of proposed rulemaking; request for comment, 83 FR 46451, September 13, 2018. <https://www.federalregister.gov/documents/2018/09/13/2018-19961/locatable-minerals>.

⁹Project on Government Oversight, Congress Must Establish a Hardrock Mining Royalty, 2021 <https://www.pogo.org/fact-sheets/congress-must-establish-a-hardrock-mining-royalty-2>.

tors could easily build all kinds of industrial facilities across public lands—power plants, processing facilities, or even gemstone shops—and call them “mining-related.”

Without the requirement of a valuable mineral discovery, all of our public lands that are not already withdrawn from mining (National Parks, wilderness areas, *etc.*) would be open to harmful mining and ill-defined “mining-related activities.”

Due to the ease of staking a claim and the difficulty of invalidating one, there is a long history of “nuisance” claims on public lands. Individuals or companies will file nuisance claims to block anticipated land uses—like withdrawals, other mines, or renewable energy development. These claims can impede these other uses and cost the federal government and private entities substantial sums to buy them out.¹⁰

Congress should reject this misguided proposal.

RAÚL M. GRIJALVA,
Ranking Member.



¹⁰U.S. Government Accountability Office, 1990, *Unauthorized Activities Occurring on Hardrock Mining Claims* RCED-90-111 Federal Land Management: Unauthorized Activities Occurring on Hardrock Mining Claims (gao.gov).