

OUTDOOR ALLIANCE

May 11, 2022

Rep. Alan Lowenthal
Chair, Subcommittee on Energy and Mineral Resources
108 Cannon House Office Building
Washington, DC 20515

Rep. Pete Stauber
Ranking Member, Subcommittee on Energy and Mineral Resources
461 Cannon House Office Building
Washington, DC 20515

Re: Subcommittee hearing on reforming the Mining Law of 1872, May 12th, 2022

Dear Chair Lowenthal and Ranking Member Stauber,

On behalf of the human powered outdoor recreation community, thank you for holding May 12th's legislative hearing on H.R. 7580, the Clean Energy Minerals Reform Act (CEMRA).

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

Improving federal mining policy and accelerating our society's transition towards renewable energy are both critically important priorities for the outdoor recreation community. For the past 150 years, the 1872 Mining Law has elevated hardrock mining above other uses of federal public lands, including outdoor recreation, and has encouraged irresponsible mineral development without environmental standards or a meaningful return for taxpayers. CEMRA provides a comprehensive,



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long overdue update to federal mining policy that, if passed, provides the planning guidance, environmental safeguards, and taxpayer protections needed to support a responsible increase in federal production of critical minerals.

The 1872 Mining Law is a relic of a different time that does not reflect our modern-day understanding of the benefits and values of public lands, the outdoor recreation economy, or the detrimental environmental effects of hardrock mining. The law gives mining companies unfettered access to public lands in a way that no other user group enjoys. Under the law, mining companies do not pay royalties to the federal government and often do not meaningfully consult with Tribes about mining activities that harm Tribal communities. Meanwhile, land managers are often hamstrung in their ability to say no to projects would have unacceptably deleterious effects on other resource values.

Hardrock mining directly affects the outdoor recreation community in a number of ways. Legacy impacts from irresponsible mining have degraded watersheds throughout the country and continue to create an ongoing hazard for whitewater paddlers and other river users in places like Colorado's Animas watershed and California's South Yuba River. The outdoor community is also affected by proposals for new hardrock mines, and—due to outdated mining policy—lacks a sufficient legal pathway for ensuring that new mines do not impair irreplaceable recreation resources. For example, our organizations are currently involved in mining proposals that threaten iconic recreation resources, including the South Fork Salmon River, the North Fork Smith River, and the Grand Canyon. These proposals and others threaten the ecological and recreational values of public lands and also threaten the growing outdoor recreation economy, which makes up nearly two percent of U.S. gross domestic product.¹

The reforms outlined in CEMRA are also needed to support America's transition towards a clean energy future. Building the infrastructure necessary for expanding renewable energy, including batteries for electric vehicles, may require an increase in mining on federal public lands. At 150 years old, the 1872 mining law should not be the guiding policy for siting and reclaiming mines, or for ensuring a fair return to

¹ Total Gross Domestic Output for Outdoor Recreation, Outdoor Recreation Satellite Account, U.S. and States, 2020, Bureau of Economic Analysis, U.S. Department of Commerce, *available at* <https://www.bea.gov/sites/default/files/2021-11/orsa1121.pdf>.



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taxpayers throughout this transition. Passing the reforms outlined in CEMRA is an absolutely critical step towards producing more domestic clean energy and ending our society's reliance on fossil fuels.

While Outdoor Alliance is supportive of CEMRA in its entirety, the sections below outline some areas of the bill that have particular resonance for the outdoor recreation community:

Title I—Mineral Leasing, Exploration, and Development

Outdoor Alliance strongly supports Title I, which would end the chaotic claim staking system for hardrock mining. In its place, Title I would create a permitting and leasing program, and also establish royalties to ensure that taxpayers see more of the financial benefits of hardrock mining on federal lands. The permitting and leasing system described in Sections 103–105, which is similar in nature to the existing system for oil and gas development, provides transparent, up-front planning opportunities that would greatly benefit the outdoor community and other public lands stakeholders.

Additionally, we are highly supportive of Sections 111 and 112, which provide protections for areas with important cultural, recreational, and ecological values. Preventing mining activities from impairing important recreation landscapes is a top priority for the outdoor recreation community. The 1872 Mining Law, which largely predates America's system of protected public lands, provides no protections for important Tribal, conservation, or recreation landscapes. Section 111 would prevent new permits from being issued if they would negatively affect a National Park or National monument, and also prohibits mining activity from occurring in Native American sacred sites, Wilderness Study Areas, Wild & Scenic Rivers, and other important areas. Withdrawing these areas from consideration for hardrock mining will reduce controversy and will help ensure that mining projects do not impair rare ecologically sensitive areas or priority conservation landscapes. Similarly, Section 112 gives federal agencies clear authority to determine whether lands are not suitable for mineral leasing based on their environmental and cultural characteristics.



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Title II—Consultation Procedure

Outdoor Alliance strongly supports Title II, which would strengthen Tribal consultation for mining activities that affect Tribal communities. Tribes deserve consistent, early opportunities to consult with federal agencies about mining before permitting decisions are made. Title II would standardize consultation requirements across federal agencies and would allow Tribes their proper role of determining the mix of development and conservation priorities appropriate for their communities.

Title III—Environmental Considerations of Mineral Exploration and Development

The 1872 Mining Law largely predates the conservation movement, and, as a result, it does not contain environmental standards or require best management practices. Title III would require federal agencies to ensure that mining and reclamation activities do not unduly degrade public lands and resources. Outdoor Alliance strongly supports Sections 302–304, which would require permits for exploration and operations of hardrock mines and apply environmental standards and reclamation requirements.

Title IV—Abandoned Hardrock Mine Reclamation

A 2020 U.S. Government Accountability Office (GAO) study estimates that at least 140,000 abandoned hardrock mine features exist across federal public lands. Of these, around 67,000 pose physical hazards to people, and 22,500 pose environmental hazards that threaten public health, wildlife, and aquatic ecosystems.² Together, these abandoned mines create a substantial environmental hazard and represent an enormous fiscal burden for federal agencies. Title IV would create a Hardrock Minerals Reclamation Fund that would carry out the abandoned hardrock mine cleanup program established by Section 40704 of the Infrastructure Investment and Jobs Act. Funds for the program would come from a portion of royalties, rents, and fees generated by other provisions of CEMRA. This cleanup program is greatly needed to remediate ongoing issues like soil

² Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors that Limit Efforts to Address Hazards. United States Government Accountability Office. March 2020. Report to the Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, U.S. Senate, <https://www.gao.gov/products/gao-20-238>.



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contamination and acid mine drainage that cause public health and safety issues for outdoor recreationists and others. Addressing these legacy mining impacts is a high priority for the outdoor recreation community, and we strongly support Title IV.

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On behalf of the human-powered outdoor recreation community, thank you for your work in advancing this important bill. We look forward to working with you to modernize hardrock mining and transition our society towards clean energy.

Best regards,



Louis Geltman
Policy Director
Outdoor Alliance

cc: Adam Cramer, Chief Executive Officer, Outdoor Alliance
Chris Winter, Executive Director, Access Fund
Beth Spilman, Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
Todd Walton, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Jamie Logan, Interim Director, American Alpine Club
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Keegan Young, Executive Director, Colorado Mountain Club
Chad Nelsen, Chief Executive Officer, Surfrider Foundation

