

OUTDOOR ALLIANCE

March 11, 2025

Senator Mike Lee

Chair, Senate Energy and Natural Resources Committee

363 Russell Senate Office Building

Washington, D.C. 20510

Senator Martin Heinrich

Ranking Member, Senate Energy and Natural Resources Committee

709 Hart Senate Office Building

Washington, D.C. 20510

RE: March 12th full committee hearing on mining legislation.

Chair Lee, Ranking Member Heinrich, and members of the Committee,

On behalf of the human-powered outdoor recreation community, thank you for holding March 12th's hearing on hardrock mining and critical minerals legislation. Reforming America's outdated hardrock mining laws is a priority for our community, both to address the demand for critical minerals to support clean energy and to ensure that new mining projects do not adversely affect public lands values including outdoor recreation. This letter outlines our strong support for one bill before the Committee—S. 859—which would make these critical reforms, as well as recommendations for improving another bill—S. 544—to prevent future resource conflicts related to mining waste storage.

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.

Currently, the outdoor recreation community and the outdoor economy are profoundly affected by hardrock mining. Improperly sited mines have the potential



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to irreversibly degrade outdoor recreation resources like rivers, trails, and climbing areas, as well as important cultural sites and conservation lands—often areas that our community considers irreplaceable. Recreationists are also affected by legacy mining pollution, which the EPA estimates has polluted 40% of headwaters in western U.S. watersheds.¹ At least 140,000 abandoned hardrock mine features exist across federal public lands, many of which pose physical hazards to people, as well as environmental hazards that threaten public health, wildlife, and aquatic ecosystems.² Without proper regulation, these mining impacts threaten the outdoor recreation experience on federal public lands and also threaten America’s growing \$1.2 trillion outdoor recreation economy, which employed nearly five million people in 2023.³

The lack of protections for recreation and other public lands values in the 1872 Mining Law—the outdated law that still governs hardrock mining on western public lands today—poses a major barrier for our community to support mining projects that might be needed for clean energy and other purposes. As Congress considers legislation to accelerate domestic production of critical minerals, it is imperative that these policies be paired with significant reforms to the 1872 law that reflect modern uses of public lands, cultural values, and local economies. At a minimum, these reforms should include adequate funding for abandoned mine remediation, royalties for hardrock mining, and clearer discretion for agencies to approve or deny mining projects based on foreseeable impacts to ecological, cultural, or recreational resources. Accelerating hardrock mining without these necessary reforms will likely increase controversy around mining projects leading to uncertainty and delay, as well as degradation of public lands, cultural sites, recreation opportunities, and local economies.

Our comments on specific bills are below.

¹ U.S. Environmental Protection Agency, EPA-840-B-00-001, Liquid Assets 2000: America’s Water Resources at a Turning Point (2000).

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>.

³ U.S. Bureau of Economic Analysis, BEA 24-53, Outdoor Recreation Satellite Account, U.S. and States, 2023 (2024).



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Mining Waste, Fraud, and Abuse Prevention Act of 2025 (S. 859)

Outdoor Alliance strongly supports the Mining Waste, Fraud, and Abuse Prevention Act of 2025, which proposes greatly needed reforms to the 1872 Mining Law. For more than 150 years, the 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 the owners of public land, the American public. S. 859 provides a comprehensive, long overdue update to federal mining policy that, if passed, would provide the planning guidance, environmental safeguards, and fiscal protections needed to support a necessary responsible increase in production of critical minerals from public lands. We especially appreciate that S. 859:

- Eliminates patenting of public lands. § 101 would permanently end the practice of patenting public lands, whereby individuals and corporations can purchase public lands from the federal government at a nominal price. Although Congress has imposed temporary moratoriums on new patent applications since 1994, a permanent fix is needed for this outdated policy.
- Establishes royalties for hardrock mining. Title II would establish royalties to help ensure that Americans see more of the financial benefits of hardrock mining on public lands. Revenues would support the Hardrock Minerals Reclamation Fund established in Title IV.
- Requires permits for exploration and mining operations. Sections 302 and 303 would establish a permitting system for hardrock mine exploration and mining operations, respectively. These permit systems would help prevent degradation of public lands and mandate better planning for mining activities.
- Creates new pathways for protecting special places. Section 307 creates a process by which local land managers review important conservation areas, including Areas of Critical Environmental Concern, Wilderness-quality lands, and eligible Wild & Scenic Rivers, and make a determination as to whether lands should be withdrawn from mining. This section also allows states, Tribes, and local governments to petition the federal government to withdraw lands from mining.
- Strengthens tribal consultation. Tribes deserve consistent, early opportunities to consult with federal agencies about mining proposals before



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permitting decisions are made. § 310 would provide consistency for the consultation process related to hardrock mining.

- Address legacy mining pollution. 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 S. 859. This cleanup program is greatly needed to remediate ongoing issues like soil contamination and acid mine drainage that cause public health and safety issues for outdoor recreationists and others.

These reforms are critically needed to bring hardrock mining policy into the 21st century. Our organizations encourage you to advance this important legislation in the 119th Congress.

Mining Regulatory Clarity Act (S. 544)

The Mining Regulatory Clarify Act (MRCA) seeks to address concerns with hardrock mining waste disposal stemming from the 2022 *Rosemont* court decision.⁴ We appreciate that the MRCA has been considerably improved since the version introduced in the last Congress; however, we remain concerned that the bill is more broadly written than necessary to allow for responsible mineral extraction and needs to be improved to provide certainty that it will not lead to mining companies establishing mill site claims beyond what is necessary for mining waste disposal.

The MRCA would allow mining claimants to establish 5-acre mill sites “as are reasonably necessary for its operations” and use these sites for waste disposal or other operations incident to mining. We recommend that the bill be targeted in the following ways:

- Amend the “as are reasonably necessary” language from subsection (c)(2)(A) to clarify that claimants are only allowed to claim the minimum number of mill sites necessary to dispose of mining waste.

⁴ *Center for Biological Diversity v. U.S. Fish & Wildlife Service*, 33 F.4th 1202 (9th Cir. 2022).



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- Clarify that, with regards to non-withdrawn lands, the MRCA preserves 1872 Mining Law's core requirement that the right to use and occupy mining claims is contingent on the discovery of a valuable mineral deposit. As written, the bill includes a savings clause in subsection (c)(8)(D) explicitly preserving the discovery requirement for withdrawn lands, which could be read to inadvertently imply that this requirement doesn't extend to non-withdrawn lands. This ambiguity should be clarified.
- Provide clear statutory authority for agencies to approve or deny a mining plan of operations, and provide guidance for agencies to ensure that mill sites are not sited on areas with resource conflicts, including outdoor recreation sites, cultural sites, or environmentally sensitive lands.
- Delete the phrase "or other operations reasonably incident to mineral development" from the definition of mill sites. This language is not necessary to address *Rosemont*, which only addressed mining waste disposal.
- Increase funding for the Abandoned Hardrock Mine Fund. We are pleased that the bill would invest mill site claim maintenance fees in abandoned hardrock mine remediation; however, we recommend increasing claim maintenance fees beyond the current \$200/year and also identifying other sources of funding for this purpose.

These changes are necessary to prevent abuses of the mill site provision and will help ensure that mining occurs in a way that is responsive to the concerns of local communities. Finally, given the pressing need for holistic reforms to mining governance, we believe the issues addressed by the MRCA are only appropriately addressed in the context of broader reforms as contemplated by the Mining Waste, Fraud, and Abuse Prevention Act.

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Thank you for considering our community's input. We look forward to working with you to reform hardrock mining policy to meet the demand for critical minerals while protecting outdoor recreation opportunities, conservation values, and cultural resources on America's public lands.



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Best regards,



Louis Geltman

Vice President for Policy and Government Relations

Outdoor Alliance

cc: Adam Cramer, Chief Executive Officer, Outdoor Alliance
Heather Thorne, Executive Director, Access Fund
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