

**American Whitewater - American Rivers - Kalmiopsis Audubon Society - Earthworks  
Friends of the Kalmiopsis - Oregon Coast Alliance - Geos Institute - Cascadia Wildlands  
Native Fish Society - Fishhawk River Company - Northwest Rafting Company  
South Coast Tours - Friends of Del Norte - ECHO River Trips - Smith River Alliance  
Pacific Coast Federations of Fisherman's Association - Washington Wild  
Western Environmental Law Center - Klamath-Siskiyou Wildlands Center - Oregon Wild  
Soda Mountain Wilderness Council - North Cascades Conservation Council - Rogue Sprey  
Cascades Forest Conservancy - Washington Trails Association - Rogue Riverkeeper  
Drake Outdoor Exploration - Environmental Protection Information Center  
Okanogan Highlands Alliance - Sundance Kayak School - The Lands Council  
Pacific Rivers - Oregon Environmental Council - Food & Water Watch  
Arch Rock Brewing Company**

August 3, 2017

The Honorable Lisa Murkowski, Chair  
Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member  
Senate Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

The organizations below represent thousands of citizens in Oregon, Washington and California who depend on the clean drinking water, native salmon and steelhead runs, recreation and other amenities provided by our priceless public lands and the beautiful rivers that flow through them. Many of us live, work or have businesses or farms in communities whose clean drinking water or quality of life is threatened by highly speculative and destructive mine proposals. We speak from direct experience about how the current mine permitting process already favors multinational mining companies over local communities and the American public.

We write to you today to express our grave concern over Subtitle D, of Part IV of Title III, the Critical Minerals subtitle of S.1460, the Energy and Natural Resources Act of 2017. This subtitle disregards the real threats to communities and their water supplies from mining, while acquiescing to false claims by the mining industry that the current permitting process is unfair to them. The subtitle also creates an overly broad process for determining which minerals are critical, potentially expanding the definition of what is a critical mineral to all hardrock minerals, including readily available minerals such as gold and copper.

While Subtitle D purports to streamline the mine permitting process and facilitate the mining of critical minerals, it is actually a solution in search of a problem. What is needed instead is a regulatory regime that is more fair to communities and the American public and includes authority for land managers to say no to mines.

In practice, mining companies create more permitting delays than agencies or regulations. According to a 2016 Government Accountability Office report, the Bureau of Land Management spends on average two years permitting a mine.<sup>1</sup> Two-year permit times is competitive with the other Western democracies with robust mining industries such as Australia, Canada, Chile, and Norway. According to the GAO, the main cause of permit delays is the poor quality of information provided by the permit applicant. Incomplete application information, changes to plans of operations, and market fluctuations lead to most delays.

Most importantly, a streamlined permitting process would have the regrettable impact of stifling the voices and expertise of people in the communities that would be most impacted by the proposed mine. Some mines threaten National Wild and Scenic Rivers, National Recreation Areas, Wilderness Areas, salmon runs, sacred sites, clean drinking water supplies, agricultural water sources, and our communities' very way of life. Permitting massive projects like hardrock mines especially in sensitive areas merits a very deliberate consideration process. Expedited procedures harm the public's opportunity to inform themselves and to educate regulators about the impacts these mines create.

The mining industry in this country already enjoys unprecedented access to hardrock minerals on public lands – minerals they receive for free under the antiquated 1872 Mining Law. In addition to royalty-free mining, mining companies receive enormous tax breaks for degrading our public lands. Worse, federal land managers at the Forest Service and Bureau of Land Management interpret the mining law to give mining precedence over all other uses of public lands – prioritizing mining over hunting, fishing, recreation, grazing, public water supplies, and other beneficial uses. Many of these uses are key to the identity and economy of rural communities.

Finally, the mining industry also benefits from lax regulation during operation and insufficient bonding and reclamation requirements. Loopholes in the Clean Water Act and Resource Conservation and Recovery Act allow mining companies to dump their waste into our lakes, rivers, and streams. Several studies have shown that mines pollute ground and surface water, even when permit applicants claim they will not.<sup>2</sup> In fact, a groundbreaking study found that

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<sup>1</sup> U.S. Government Accountability Office, *Hardrock Mining: BLM and Forest Service Have Taken Some Actions to Expedite the Mine Plan Review Process but Could Do More* January 2016, Available at: <https://www.gao.gov/products/GAO-16-165>

<sup>2</sup> Gestring, Bonnie, "U.S. Copper Porphyry Mines: The Track Record of Water Quality Impacts Resulting from Pipeline Spills, Tailings Failures and Water Collection and Treatment Failures, July 2012. (Revised 11/2012) Available at: [https://www.earthworksaction.org/files/publications/Porphyry\\_Copper\\_Mines\\_Track\\_Record\\_-\\_8-2012.pdf](https://www.earthworksaction.org/files/publications/Porphyry_Copper_Mines_Track_Record_-_8-2012.pdf)

75% of mining operations pollute surrounding surface or groundwater, despite their robust environmental reviews.<sup>3</sup>

Subtitle D of Part IV of Title III of S.1460 sets the United States on a path that prioritizes resource extraction and mining industry profits over clean water and local communities. The National Defense Stockpile Act already ensures we have key minerals for defense, and our permitting times are on par with other developed countries.

The real solution to facilitating mineral development in the United States is genuine reform of the 1872 Mining Law. Bringing the mining law into the 21st century will lead to fewer conflicts and more responsible mining, while also better protecting our most precious public land values – especially clean water and rivers.

Sincerely,

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<sup>3</sup> Kuipers, J.R., Maest, A.S., MacHardy, K.A., and Lawson, G. 2006. Comparison of Predicted and Actual Water Quality at Hardrock Mines: The reliability of predictions in Environmental Impact Statements.

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