

August 30, 2022

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Deputy Assistant Secretary, Land and Minerals Management  
Department of the Interior

Submitted via email [miningreform@ios.doi.gov](mailto:miningreform@ios.doi.gov)

Dear Interagency Working Group,

On behalf of our millions of supporters and members we write to express our views on the prompt:

*Would alternatives to the existing claim system, such as leasing, or adjustments to the current system, such as incorporating mining into comprehensive federal lands use assessments and planning, lead to better outcomes for communities, environment and a secure domestic supply of minerals? If so, how should such an alternative or adjusted system be structured?*

The undersigned support and ask that the Interagency Working Group (IWG) and the Biden administration support leasing as the preferred alternative to the existing claim system for hardrock mining. Congress introduced legislation to create a leasing system earlier this year in the H.R. 7580, The Clean Energy Minerals Reform Act.<sup>1</sup> We are supportive of the work that the IWG is doing to update our antiquated mining laws and regulations, and we appreciate the opportunity to comment on this important topic.

The hardrock mining law dates back to 1872, when the United States incentivized colonization and settlement of what is now the Western part of the country. Now more than 150 years old, the mining law allows anyone to stake claims on public land and extract minerals including gold, copper, uranium, and other minerals from the ground without paying any royalties to the public, and limits the discretion of land managers. Whereas under a leasing system, the land agencies have complete discretion. With an increased focus on the raw materials needed to electrify our economy, this IWG has a pressing and compelling moment to update the statutory underpinnings of the hardrock mining laws. Doing so will help avoid repeating the same injustices and mistakes of the last two centuries that Indigenous and other mining-affected communities, taxpayers, and the environment have had to endure.

The existing statutory regime has failed communities and the environment. Hardrock mining is a dirty business that releases arsenic, mercury, and lead into communities' air and waters. It has left hundreds of thousands of hazardous abandoned mines across the West, polluting water and land and causing serious hazards. According to the Environmental Protection Agency's Toxics Release Inventory, the hardrock mining industry releases more toxic chemicals into air, land, and water than any other industry.<sup>2</sup> Indigenous communities have long borne the disproportionate impacts of mining operations, and

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<sup>1</sup> See "H.R. 7580 - Clean Energy Minerals Reform Act of 2022" at <https://www.congress.gov/bill/117th-congress/house-bill/7580>.

<sup>2</sup> See "Toxics Release Inventory – What is it?" at <https://earthworks.org/issues/toxics-release-inventory-what-is-it/>.

modernizing this long-outdated framework would help ensure that tribal lands, sacred sites, and water and land resources are properly protected.

The mining law needs to be modernized to ensure a proper balance is struck as we transition to a renewable energy economy. Adopting a leasing regime is a fundamental component of this modernization and it is not unique. Indeed, the current royalty-free claims system in the United States is unique. We are the world's only nation that charges no federal royalty for hardrock minerals. Yet, our public lands agencies have managed a leasing or saleable regime for all other minerals for many decades—whether it be fossil fuels or sand and gravel. Hardrock minerals should not be treated any differently.

A leasing regime paired with modern rules for hardrock minerals would afford many benefits. It would create a framework for land managers to undertake comprehensive planning in a transparent and open public process. A comprehensive planning approach can provide a certain, upfront determination whether or not lands and areas are suitable for hardrock mining. A leasing regime would afford Tribes and local communities early and comprehensive engagement and help identify areas that should be off-limits from mining due to other resources, land uses, or values that are incompatible with hardrock mining development. A leasing regime, as proposed in H.R. 7580, would reduce, and even avoid some of the conflicts that result under the current law, obtaining better outcomes for Indigenous and mining-affected communities, land managers, and industry. This is because a leasing regime's comprehensive land use planning (and reasonable royalties) will afford mining-affected communities better access to information and opportunities to improve results. It is also necessary for providing a fair return to taxpayers and helping ensure mining lessees earn a social license to operate.

Accordingly, we ask that the IWG, the Biden administration, and all federal agencies recommend and support modernizing the 1872 Mining Law through the adoption of a leasing regime as proposed in H.R. 7580. The mining law needs to work for the American people, Indigenous and other mining-affected communities and land management agencies—not just industry.

Sincerely,

Arizona Mining Reform Coalition  
Cascade Forest Conservancy  
Center for Biological Diversity  
Cook Inletkeeper  
Earthjustice  
Earthworks  
GreenLatinos  
High Country Conservation Advocates  
Information Network for Responsible Mining  
Malach Consulting  
Multicultural Alliance for a Safe Environment  
National Parks Conservation Association  
New Mexico Environmental Law Center  
Northern Alaska Environmental Center

Progressive Leadership Alliance of Nevada (PLAN)

Rivers Without Borders

Save The Scenic Santa Ritas

Silver Valley Community Resource Center

Southeast Alaska Conservation Council

Southern Utah Wilderness Alliance

Tucson Audubon Society

Waterway Advocates