

COMMITTEE ON NATURAL RESOURCES
115th Congress Disclosure Form
Legislative Hearing on H.R. 520 (Rep. Mark E. Amodei)
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Testimony

Mr. Chairman and Members of the Committee,

Good afternoon, my name is Greg Lucero and I am the VP of Government Affairs for Arizona Mining Inc. Our project, Hermosa, is located in southern Arizona about 90 miles southeast of Tucson. There we have discovered what is fast becoming the largest zinc/lead/silver mine in the world. Additionally, on our land holdings, which include almost 20,000 acres of both patented and unpatented mining claims, we have located another world class deposit that contains silver/zinc/manganese. Zinc, silver and manganese are all critical and strategic minerals. Unfortunately, 100% of the manganese that is used in the US today is imported, 98% comes from China and 2% from South Africa. Every pound of steel and aluminum that are manufactured contain manganese at various levels. It is needed to strengthen these compounds and currently there are no substitutes. Once in production, the Hermosa mine will be the only source of manganese in North America.

I have brought with me three core samples of the minerals from our site. The first is a sample of Chalcopyrite a copper bearing sulfide. While we will not be producing copper, initially, it is nice specimen and what Arizona is known for. The second contains galena, which is grey or silver in color, and sphalerite, which is yellowish brown in color. From galena we will produce lead and silver. About 80% of all lead produced is used to make lead acid batteries. The primary use for silver, believe it or not, is for industrial purposes. It is used in electronics or for electrical purposes. It is the number one choice for electronics or anything electrical such as printed circuit boards, switches, TV screens, smartphones, microwave ovens, children's toys and computer keyboards. Sphalerite will produce zinc and silver. Zinc is primarily used for galvanizing metal/steel, is a key component in fertilizer and cold preventative medications. The last specimen cryptomolene a silver and zinc bearing manganese mineral. As previously mentioned, manganese is essential for steel and aluminum production but it is also an energy critical element. According to the Department of Energy it is critical to one or more new, energy related technologies needed for the production, distribution, and storage of electrical energy.

On behalf of myself, my colleagues at Arizona Mining Inc. and the mining industry at large, we appreciate your efforts to address this issue of critical importance. Lack of efficiency in the permitting process has severely threatened the development of our domestic supply of critical and strategic minerals important to the United States. H.R. 520 is a great start for addressing many of these issues and time delays. We have reviewed this legislation and would like to focus on three key areas: (i) the definition of critical minerals, (ii) provisions to expedite permitting for exploration mining and the construction of associated infrastructure and support facilities and (iii) provisions to reduce federal decision-making processes and have specific suggestions for modifications attached as **Exhibit A**.

1. Critical Minerals Definition and Supply Chain Consideration:

The President's recently issued executive order entitled "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals" (hereafter the "EO") includes a definition of "critical minerals" which the proposed legislation may want to adopt [Section 4(a)]. In addition, the EO requires the Department of Interior to publish a critical minerals list which is due in the near future.

Once published, that list should be the milestone for a determination that a mine producing that mineral(s) will be considered an "infrastructure project." [Section 4(b)]. This will eliminate the need for any particular lead agency to make an independent determination that a project qualifies as an "infrastructure project."

In addition, in order to effectively address national security and manufacturing competitiveness of the United States, the legislation should be broadened to consider expedited approvals for the entire supply chain. As drafted, the bill focuses solely on permits for production not smelting, for which additional capacity is desperately needed. As you are aware all of these minerals have to be sent to China or South Korea for processing only to be sold back to us as metal.

2. Exploration:

Exploration is the initial phase of work that is the precursor to defining a mineable resource. Without exploration it is impossible to develop a resource and gain access to capital markets to build a mine.

- a) In order to begin exploration activities on federal lands an unpatented mining claim must first be staked out in the field, recorded with the County, and filed with BLM. Holders of unpatented mining claims pay annual maintenance fees to hold primacy on mineral rights that they believe to hold the potential to host mineable resources. In the case of Arizona Mining Inc., the company maintains approximately 19,000 acres of unpatented mining claims at an annual cost of \$300,000. Some of these claims have been held for over 10 years and the company has yet to receive a permit to explore any of the claims.
- b) Arizona Mining Inc. recently submitted a drilling plan of operations to the Coronado National Forest to build less than 1/3 mile of temporary road to construct 3 drill pads that would disturb less than one acre. According to the Forest Supervisor, processing the plan of operations for approval would take their agency 700 days. This did not include personnel time off for vacations, fighting fires and attend training programs. After that, AMI would then have to contend with litigation, which we all know is now a common part of the process. In the end it would've taken the company well over 2 years to receive a permit that would temporarily disturb less than an acre.
 - i. If BLM were managing this same federal land, the drilling plan would be approved in a matter of days and drilling would have commenced in less than a month. Why can one federal land management agency issue a permit in a matter of days and another takes years? All the while, the company is paying claim maintenance fees for land that cannot be explored.
- c) As with all exploration, the opportunity for success is not very high. A commonly used statistic is that only one in 10,000 exploration projects becomes a mine. Going forward the ability to find economic concentrations of metals is going to become much more difficult. The easy ones have been found and mined. If not for the private property owned by the company, the drilling

necessary to discover two world class ore deposits would not have been possible. The next generation of explorers are going to have to be more creative. The permitting process must be streamlined if we hope to fill the need for critical and strategic materials in this country.

3. Mining and Infrastructure:

Without question a mining project requires a substantial capital investment. Companies, and more importantly their investors, must have certainty in completing a permitting process in a timeframe that is on par with other industrial countries.

- a) Once an economic discovery is made huge investments are required to engineer and plan the project. It is not uncommon to spend \$20 – 150 M in completing studies and engineering in preparation to submit a mine plan of operations. Imagine if you can, how you would feel to put that kind of money into building a house and not be able to move in until you get permits, again, all the while paying the monthly mortgage (claims maintenance fee)!
- b) The 10 – 15 years it currently takes to develop a mining project on federal lands is the major reason the US does not have an adequate supply of critical and strategic minerals. Furthermore, the delays caused by the current process benefit no one outside those benefiting from litigation. How is it that we can put the entirety of the Library of Congress at our finger tips for instant access but yet we are unable to study and understand the flora and fauna of a defined area in less than 10 years?
- c) A year ago today, we submitted an application under the Small Tracts Act which was established to remedy gaps between patented mining claims separated by small parcels of federal land. Our proposal was simply intended to acquire the federal land between our patented parcels upon which we intend to use existing roads to access those parcels. The Forest Service has yet to determine if our application is even eligible to proceed to NEPA review. In an effort to expedite this process, we suggested a land exchange for other patented mining claims we own in the Coronado National Forest with the belief it would be in the best interest of public. We were informed by Forest Service personnel that a land exchange was not possible under the Small Tracts Act even though it is clearly stated as an option under CFR Title 36 Part 254 Subpart C.

We are not here to disparage the agency personnel with whom we are working with because they are all working hard to complete the process as they understand it. Unfortunately, the process has grown and continues to grow unchecked and in most cases proponents or applicants run out of funds or simply give up out of frustration. If not for the private property our project is located on our two world class ore bodies would likely never have been discovered.

In conclusion, we are grateful for your time and efforts to address this issue and improve the process of developing critical minerals in the United States. We are hopeful that with this legislation Congress will compel and mandate changes to encourage domestic development and production of mineral resources. We are ready to assist in any way possible and rather than attempt to address each of the many facets of H.R. 520 we attached as an exhibit some considerations, recommendations and amendments that we believe will assist with the implementation of this legislation. I would like to leave you with one last thought; true wealth creation, not redistribution, is limited to the activities of farming, fishing and mining. To help reduce our national debt and dependence on often hostile foreign countries for our required resources it is imperative that we act now to remedy this situation before it is too late.

EXHIBIT A

I. Section 3 (Definitions), No. 4 - Mineral Exploration or Mine Permit

We suggest expanding the definition of “Mineral Exploration or Mine Permit.” The current definition includes only federal agency approvals of mine plan of operations and not federal approvals for special use authorizations which may be needed to construct infrastructure (roads and utilities) or smelting capacity to serve mines. This relates to my earlier point about attempting to provide permit streamlining for the entire mineral supply chain.

II. Section 5(b) Determination under NEPA

We understand that the intent of Section 5(b) is to allow federal agencies to rely on the determinations of other state and federal agencies who may have primary jurisdiction over particular resource areas. However, our concern is that if passed in its current form, the legislation would not be particularly effective because state agencies typically do not make the enumerated determinations in the proposed legislation. In addition, this section contemplates a written finding by the lead federal agency early in the permit process which is in addition to the final decision-notice or record of decision. To illustrate our concern:

- Section 5(b)(1)(B) states that if another state or federal agency has or will address “[p]ossible adverse environmental effects of actions under the permit” then the lead-agency can rely on that analysis. This standard is such that state agencies may not specifically consider “adverse” effects and a broader consideration of “reasonably anticipated and material adverse environmental effects, if any” might be more appropriate.
- Section 5(b)(1)(C) contemplates that if state agencies have studied “[p]ossible alternatives to issuance of the permit” the lead-federal agency can rely on that evaluation for its decision-making. With the exception of a few western states (e.g., California), there are no state NEPA processes wherein such an evaluation of that kind is required or would otherwise take place.
- Section 5(b)(2) requires the lead agency to issue a reasoned, written record of decision as to reliance on other state and federal agency decisions early in a permit process. This will add an extra layer of federal agency decision making, possibly resulting in administrative or judicial appeals. Consistent with the goals of other federal legislation designed to expedite permitting (the RAPID Act, etc.) the result should be one federal decision, not multiple-decisions in a single permit process.

III. Section 5(c)(3) - Memorandum of Agency Agreement

We are concerned that the open-ended requirement for the lead-agency to enter into a Memorandum of Agency Agreement (MOAs) upon the request of a state and local planning agency could create delay and result in undue influence on the permitting process. In Arizona, counties may not use their planning and zoning authority to regulate mining activities and this provision could open that door in the name of “coordination.”

IV. Section 5(f) - Financial Assurance

We also recommend removing this section of the proposed legislation. The process for determining the appropriate amount of financial assurances for exploration and/or mining activities is well established by existing state and federal regulations.

V. Executive Order No. 13817, Council on Environmental Quality and Interior Processes

Executive Order No. 13817 requires agencies to streamline permitting and review processes. At this time, efforts are ongoing with the Secretary of the Interior (Secretarial Order No. 3355), Department of Agriculture and the Council on Environmental Quality to streamline implementation. To the extent possible, the legislation should seek consistency with suggested NEPA completion timeframes identified by the Secretary of Interior (e.g., issue final EIS within one year from the issuance of a notice of intent) and attempt to incorporate the process enhancements set forth in the Deputy Secretary of Interior's Pilot Program for Federal Register publications and BLM related instructional memorandum. As drafted, the proposed legislation targets completion of NEPA analysis within 30 months [Section 5 (e)].