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Northwest Mining Association Supports Mining Law Changes to Assess a Net Royalty, Create an AML Fund, Provide Secure Land Tenure, and Retain Existing Environmental Regulations

The Northwest Mining Association (NWMA) supports surgical, common-sense amendments to the Mining Law that address the well recognized shortcomings in the current law – the lack of a royalty or a fund to reclaim abandoned mined lands (AML). An amended Mining Law must also ensure miners’ rights to enter upon, use and occupy public lands to explore for minerals and to develop mines and use the existing environmental regulatory framework for mineral activities.

NWMA urges Congress to enact Mining Law amendments that will reduce America’s reliance on foreign minerals; provide domestic sources of the minerals needed for America’s national and economic security; create thousands of high paying family-wage jobs; and strengthen the economy in rural communities throughout the West. Specifically, NWMA believes responsible Mining Law legislation should accomplish the four objectives outlined below:

1. ENACT A NET ROYALTY THAT PROVIDES THE PUBLIC FAIR COMPENSATION FOR MINERALS PRODUCED FROM FUTURE DISCOVERIES

- The royalty base should be net of operating costs (a “net royalty”) – and not on gross income (the royalty structure proposed in H.R. 2262). A net royalty is appropriate for hardrock minerals for the following reasons:
 - A net royalty considers the costs to process raw ore into a marketable product – a gross royalty does not.
 - Operators pay higher royalties when their net is high during periods of robust commodity prices and/or lower operating costs, and less when their net is lower during less favorable economic conditions.
 - A net royalty optimizes the use of public resources by placing mining companies and the government on the same side of the royalty equation.
 - A gross royalty causes premature mine closures when commodity prices are low and operators cannot afford the royalty. Early mine closures waste public minerals by leaving minerals in the ground and deprive the public of a longer royalty stream from those mines.
- Mine operators – not owners, co-owners, or underlying royalty owners – should be liable for paying the royalty – analogous to coal, and oil and gas royalty liability.
 - This will simplify administration of hardrock royalties by MMS.
- The royalty must be structured to recognize that underlying private royalties burden most mining claims. The combination of federal plus private royalties must not make mines unprofitable because unprofitable mines will close prematurely (or never be built in the first place). Royalties will not be realized at closed mines or mines that are not built.

- The royalty must not diminish the revenue from state mineral taxes and severance taxes that state and local governments depend on.
- The royalty amount must consider the entire cost burden of state and federal income taxes, sales taxes, and other taxes and not be so high that it becomes impossible for companies to recover the tremendous capital costs and upfront investment in mine development.
- The royalty must be prospective. Assessing the royalty on existing mining claims on which there has been substantial investment in reliance on existing law may subject the United States to substantial takings litigation.

2. PROVIDE SECURITY OF LAND TENURE

- The law must provide secure rights to enter public lands and to use and occupy those lands for the purpose of making a mineral discovery and developing a mine.
 - This security of land tenure is necessary throughout the entire mineral lifecycle of prospecting, exploration, development, mining, and reclamation to attract investment capital for exploration and mine development and to support business investment decisions to build a mine.
- Payment of the annual claims maintenance fee and the initial claim location fee should clearly establish security of tenure and all rights to use and occupy federal lands for mineral purposes.
 - The federal government must not charge any other fees or fair market value for mineral activities on federal lands.

3. USE EXISTING FEDERAL LAWS AND REGULATIONS THAT GOVERN HARDROCK MINERALS AND AVOID CREATING NEW REQUIREMENTS

- The environmental performance standards and reclamation requirements in existing federal surface management regulations effectively protect the environment
- The current the National Environmental Policy Act (NEPA) review and public participation process provides an effective tool for gathering public comments that influence regulators' decisions about project proposals.
- The existing standards and regulations for mining and the NEPA process work seamlessly together to provide BLM and the Forest Service with sufficient regulatory authority to regulate all mineral projects and to comply with land management goals.
 - This current system is working well – the H.R. 2262 changes are not warranted.
 - The sweeping modifications proposed in H.R. 2262 are solutions in search of a problem. They are not necessary or desirable and will severely curtail mineral exploration and production.

4. USE THE ROYALTIES TO CREATE AN AML FUND AND DISTRIBUTE THIS FUND TO EXISTING STATE AND FEDERAL AML PROGRAMS

- A new federal AML program – like that in H.R. 2262 – is not necessary. Existing state, BLM, USFS, and Army Corps of Engineers (RAMS) AML programs have proven track records of successfully reclaiming AML sites.

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