

1 114th Congress
2 1st session

3 **H.R.** _____
4

5 **IN THE HOUSE OF REPRESENTATIVES**

6
7 July 26th, 2015

8 Mr. _____ of California (for himself, Mr. _____
9 of _____, and Mr. _____ of
10 _____) introduced the following Bill; which was referred
11 to the Committee on Natural Resources
12

13
14 **A BILL TO PROVIDE FOR**

15
16
17 **GREEN & ENVIRONMENTALLY FRIENDLY MINING, HUNDREDS OF**
18 **THOUSANDS NEW LONG-TERM HIGH PAYING JOBS, SOCIO-**
19 **ECONOMIC GROWTH, THE UNITED STATES SUPPLYING ITSELF WITH**
20 **STRATEGIC MINERALS, METALS AND RARE EARTHS FOR**
21 **THE DEFENSE AND SECURITY OF THE NATION AND OUR COUNTRY’S**
22 **ULTIMATE ECONOMIC SURVIVAL.**
23

24 To improve Federal regulations of mineral development in the National interest.

25
26 Be it enacted by the Senate and House of Representatives of the United States of
27 America in Congress assembled,

28 *DRAFT TO BE AMENDED*
29

30 “BILL NAME”

31 **Minerals and Mining Regulatory Reform Act —**
32 **A Clear Path Respecting Mining Rights**
33

DRAFT TO BE AMENDED

1 **TABLE OF CONTENTS:**
2 **SECTION 1:**
3 (a) SHORT TITLE AND POINTS
4 (b) DEFINITIONS
5 **SECTION 101: FINDINGS**
6 **SECTION 102: IMPROVING REGULATORY ACCOUNTABILITY**
7 **SECTION 103: REMOVING OVERLAPPING AND DUPLICATIVE AUTHORITIES**
8 **SECTION 104: UNIFORM FEDERAL REGULATION**
9 **SECTION 105: THE MINING DISTRICTS AND THE MINERALS AND MINING**
10 **ADVISORY COUNCIL (MMAC)**
11 **SECTION 106: MANAGEMENT OF THE BILL**
12 **SECTION 107: REVIEW AND REVISE EXISTING FEDERAL REGULATIONS**
13 **SECTION 108: MINE OPERATION EXEMPTIONS FROM THE CLEAN WATER ACT**
14 **SECTION 109: AMENDMENT OF 30 U.S.C. § 803**
15 **SECTION 110: FEDERAL CONSENT ON PUBLIC LANDS**
16 **SECTION 111: AMENDMENT OF 30 U.S.C. § 43**
17 **SECTION 112: AMENDMENT OF 43 U.S.C. § 1712(e)(3)**
18 **SECTION 113: NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) AS IT**
19 **PERTAINS TO MINERALS AND MINING**
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1 **SECTION 1: SHORT TITLE AND POINTS**

2 (a) **SHORT TITLE:** This Bill may be cited as the “Mineral and Mining Regulatory Reform
3 Act —A Clear Path Respecting Mining Rights”.

4 Under the Multiple Surface Use Act 30 U.S.C. § 612, the National Mineral Policy Act 30 U.S.C.
5 § 21a, the U.S. Mining Act 30 U.S.C. § 22-54 and the Materials Policy Act 30 U.S.C. §1601 and
6 the Strategic and Critical Materials Stockpiling Act 50 U.S.C. § 98 et seq. the Mineral and
7 Mining Regulatory Reform Act —A Clear Path Respecting Mining Rights;

- 8 • Streamlines the regulatory process for mining.
- 9 • Removes the process of a discretionary multiple permit system.
- 10 • Provides, hundreds of thousands, new long-term high paying jobs in the green and
11 environmentally friendly mining industry.
- 12 • Insures sustainable development of the minerals of and for the nation.
- 13 • Provides for sound reclamation practices without multiple agency confusion.
- 14 • Provides security for national defense of the United States of America.
- 15 • Opens lands for public access and recreation.
- 16 • Provides needed materials for alternative energies.
- 17 • Provides for concise regulatory certainty for investment backed expectations
18 encouraging and keeping money in the United States.
- 19 • Opens the public lands for multiple use purposes, as opposed to the discrimination of
20 exclusive use.

21 Due to the creation of new mining jobs, this Bill, “Mineral and Mining Regulatory Reform Act
22 —A Clear Path Respecting Mining Rights”, also creates hundreds of thousands of new jobs for
23 the vendors and manufacturers serving the mining industry.

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29 **(b) DEFINITIONS**

- 30 **1. PUBLIC LANDS;** Lands retained for Federal management and multiple-use under the
31 disposal laws of the United States.
- 32 **2. MEMORANDUM OF UNDERSTANDING;** “MOU”.

- 1 **3.** BUREAU OF LAND MANAGEMENT; “BLM”.
- 2 **4.** MINING DISTRICTS; The Mining Districts are the governing authority (with an MOU
3 with the BLM) for the Minerals and Mining management in the United States. Mining
4 Districts are organized tracts of land valuable for the minerals and materials therein and
5 originally founded before 1953.
- 6 **5.** MINERALS AND MINING ADVISORY COUNCIL; “MMAC” Regional
7 administrative support that shall provide arbitration guidance to the local Mining Districts
8 and may provide the coordination with the Bureau of Land Management throughout the
9 United States.
- 10 **6.** SECRETARY; Secretary refers to the Secretary of the Interior.
- 11 **7.** FEDERAL UNPATENTED MINING CLAIMANT; A U.S. citizen or U.S. Corporation
12 who/which owns the mineral rights pursuant to the U.S. Mining laws on a tract of federal
13 land; subject to the Mining Districts and such other federal and state laws the Mining
14 Districts find do not unreasonably materially interfere with claimants right to possess,
15 explore, develop and extract.
- 16 **8.** RENEWABLE ENERGY; Renewable energy includes anything considered or mentioned
17 as renewable energy, renewable energy origination sites and all energy transport facilities
18 meaning any facility used for the operation, maintenance, transmission, distribution, or
19 transportation of electricity or natural gas.
- 20 **9.** NATIONAL DEFENSE AUTHORIZATION ACT; “NDAA”
- 21 **10.** DEPARTMENT OF DEFENSE; “DOD”
- 22 **11.** DEFENSE LOGISTIC AGENCY; “DLA”
- 23 **12.** UNITED STATES GEOLOGICAL SURVEY; “USGS”
- 24 **13.** BEST MANAGEMENT PRACTICES; A practice, or combination of practices, that is
25 determined to be an effective and practicable (including technological, economic, and
26 institutional considerations) means of preventing or reducing the impacts to the air, water,
27 soil and wildlife; while not unreasonably materially interfering with a federal unpatented
28 mining claimants rights.
- 29 **14.** ACCESS ROADS; Recorded ingress and egress directional travel paths, trails and or
30 roads mapped originally by the United States Geological Survey (USGS) starting in 1879
31 or mapped by Mines and Mineral Resources or any Divisions of Mines and Geology
32 thereof. This includes whether they are currently visible or not. If they existed and were
33 mapped any time to present day, they shall be recognized as roads or travel paths today.
- 34 **15.** Roads also shall be defined as 5 classes of roads, designated by the United States
35 Geological Survey (the official map making agency of the United States), the mapping of
36 the Department Of Interior, and those maps created by the military.
- 37 Class 1: Primary highway federal and state.

1 Class 2: Secondary highway state and county.

2 Class 3: Light duty paved or unimproved.

3 Class 4: Unimproved, unsurfaced, including track roads in back country designated by 2
4 parallel dashed lines.

5 Class 5: Trails (Single dashed line) roads passable only by 4 wheel drive, pack animals or
6 by foot traffic.

7 All RS 2477 rights of way claimed by the County or private citizens shall have the
8 unimpeded right to use for access as needed for mineral exploration and development.

9 **16. INDUSTRIAL SUPPLY CHAIN:** An industrial supply chain is actually a complex and
10 dynamic supply and demand network comprising private, commercial and military
11 sectors. An Industrial supply chain is a system of organizations, people, activities,
12 information, and resources involved in moving a product or service from supplier to
13 customer. Supply chain activities involve the transformation of natural resources, raw
14 materials, and components into a finished product that is delivered to the end customer.
15 In sophisticated supply chain systems, used products may re-enter the supply chain at any
16 point where residual value is recycleable. Supply chains link value chains. (See EXHIBIT
17 “A” Industrial Supply Chain Chart)

18 **17. LOCATABLE MINERAL [ADDITIONS]:** Rare earths and microbials shall be added to
19 the existing list of locatable rare metals. Many minerals and rare earth deposits have
20 already been found and identified nationally, such that they are critical and strategic
21 minerals necessary for alternative energy innovations, society health and military
22 applications.

23 **18. A MINING RIGHT:** A granted “right of self-initiation” for prospectors to explore,
24 possess, develop and extract; generally not compatible with a discretionary agency permit
25 system. This right to mine is an action (prospecting and extraction), as distinguished
26 from idle ownership. See “THE MINING LAW OF 1872: A LEGAL AND
27 HISTORICAL ANALYSIS” reference below.

28 **19. THE MINING LAW OF 1872: A LEGAL AND HISTORICAL ANALYSIS:** A book all
29 of Congress and the Senate shall have at their immediate disposal. It shall also be used
30 for reference in adjudication at all state and federal court levels. (National Legal Center
31 for the Public Interest.) Library of Congress Number 89-061085 ISBN #0-937299-14-6
32 Published June 1989

33 **SECTION 101: FINDINGS**

34 Congress has in the Mining and Minerals Policy Act of 1970 declared that it is the
35 responsibility of the Secretary of the Interior to carry out non-discretionary policies concerning
36 the development of national mineral resources. Congress also finds that the Secretary of the
37 Interior shall respect the miner’s rights of self-initiation under the General Mining Act of 1872
38 and the authority previously granted to the Mining Districts.

1 Subsequent to 1970 there has been an out growth of fragmentation upon our nations
2 national mineral policy. Misapplications of discretionary federal permit systems were recently
3 illustrated in 2012 with the courts rulings in Karuk v. Forest Service (9th Circuit in banc), that is
4 inconsistent with our national minerals policy.



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7 Conflicting State and Federal permit systems were raised even as far back as 1987 in CA Coastal
8 Commission v. Granite Rock by the words of U.S. Supreme court Justice Powell: “In summary,
9 it is fair to say that, commencing in 1872, Congress has created an almost impenetrable maze of
10 arguably relevant legislation in no less than a half-dozen statutes, augmented by the regulations
11 of two Departments of the Executive. There is little cause for wonder that the language of these
12 statutes and regulations has generated considerable confusion. There is an evident need for
13 Congress to enact a single, comprehensive statute for the regulation of federal lands. Having
14 said this, it is at least clear that duplicative federal and state permit requirements create an
15 intolerable conflict in decision making. In view of the Property Clause of the Constitution, as
16 well as common sense, federal authority must control with respect to land belonging to the
17 United States...”

18 **Mineral development necessarily must proceed where minerals are located, and**
19 **while best management practices can minimize environmental effects, requirements to**
20 **adopt practices to mitigate environmental effects shall not materially interfere with**
21 **mineral development.**

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2 Open access to public lands under the 1872 Mining Law as amended, has made the United States
3 an economic giant and militarily strong. Hundreds of thousands of citizen prospectors have
4 continually searched and inventoried our remote public lands without compensation, except for
5 the American dream of striking it rich. Homestake Mining Corporation reports in their 100 year
6 anniversary volume that it takes about 5,000 mining claim evaluations to find a single paying
7 mine. In contrast, the U.S. Geological Survey has estimated it takes on the order of 100
8 exploration wells to find a new discovery of oil or gas onshore north America. Chevron
9 Minerals Division took more than 70 years to find the platinum deposits in the Stillwater
10 Complex of Montana. Many original economic mineral discoveries are the result of small
11 explorationist's activities which are commonly brought on line by better financed organizations.
12 Once an economic mineral deposit is discovered, it commonly takes 10 or even 20 years to bring
13 a new discovery into production.

14 Exploration and mining companies are rapidly leaving the United States as a result of over
15 regulation, non-predictive regulations, corruption, land use conflictions, uncertain environmental
16 policy, mineral and land withdrawals, uncertainty concerning enforcement by at least 29 separate
17 agencies, inability to attract investors due to regulatory unpredictability, the inability to receive
18 equal access to justice attorney fees, the inability to receive fundamental due process hearings
19 from the agencies before fines are levied, and the inability to receive proper notice of land
20 management changes upon existing claimed mineral lands. (Documented by the Frazer
21 Institute Report Survey of Mining Companies)

22 Vast regions open for exploration and location are needed. Economic mineral deposits are
23 generally rare occurrences of nature. Wilderness and National Parks are generally incompatible
24 with national mineral policy, as wide areas are needed to explore for those rare anomalies of
25 nature that can be shown to be economic mineral deposits. Yet relatively small areas are
26 normally needed to mine or produce from a mineral deposit. Exploration for minerals is the
27 research and development of America's manufacturing, high tech, alternative energy, and
28 defense industries.

29 A single mineral discovery can change the world we live in. Three prospectors in 1949 were
30 exploring for uranium in the Mojave Desert, hoping to cash in on the Atomic Energy
31 Commission's \$10,000 bonus for discovery of a uranium deposit. Instead they stumbled on a
32 little known rare earth bearing mineral bastnasite. It contained more than ten percent rare earths.
33 There had never been so much rare earths found in one place and there was very little market for
34 their discovery at that time. Prior to this act their mining claims would not be economic nor
35 valid under the Mining laws of the United States. However, their accidental discovery sparked
36 the high tech revolution making the United States the leader in this technology. These rare
37 earths are now a strategic item for everything from color television, to pollution free electric
38 cars, flat computer and television screens, medical imaging devises that detect cancer earlier,

1 lasers, smart bombs, and catalytic converters. Modern military forces cannot have a credible
2 defense or offense without rare earths.

3 One rare earth these prospectors found was neodymium, which can reduce by 50% the U.S.
4 demand for electricity in lighting. Prior to this act, our regulatory system regulated the Mountain
5 Pass Mine, our only domestic supply out of business. We are now dependent on China for more
6 than 95 % the world's rare earth production. This is a very serious threat to our economy and
7 national security.

8 To understand how serious our lack of domestic strategic minerals can be, consider the rare
9 metal gallium. When gallium is used to replace silicon solar cells, it can increase the production
10 of electricity by 15 to 20 percent. When gallium is used to replace silicon chips in a computer,
11 the speed of the computer can increase processing speed several orders of magnitude. Not
12 having this technology in a missile exchange could make the difference between winning and
13 losing a war.

14 Appraising energy and mineral resources is an emerging science. A final once and for all
15 "inventory" of any energy or mineral resource is not possible. Mineral reserves and resources
16 are dynamic quantities and must be constantly appraised. As known deposits are exhausted,
17 unknown deposits are discovered, new extractive technologies and new uses are developed and
18 new geologic knowledge indicates new areas and new environments that may be favorable for
19 energy and mineral exploration. To be meaningful to modern society all present and future
20 commodity demands for agriculture, construction, medical science, manufacturing, and national
21 defense must be considered. Long term economic stability and military survival favors the
22 society with the most diverse, accessible productive and secure energy and mineral resource
23 base. This takes long term commitment as it can take many years to find and bring mineral
24 resources to market.

25 In the United States we have withdrawn from exploration and mineral entry an area nearly the
26 size of California during the last century. Most of these areas were closed before we knew
27 society's need for these new high tech elements. Therefore each area withdrawn from mineral
28 entry shall be subject to review every ten (10) years, by technically qualified members of the
29 private sector, academia, military and agencies with expertise in economic geology. Public
30 hearings and a formal investigation shall be completed within one year of the on site
31 examinations of the previously closed area. Findings and recommendations shall be available to
32 the public and the local Mining District. Estimates of the potential value and importance of
33 identified mineral resource shall be made available to Congress, the public and the local Mining
34 District. Areas of significant economic and militarily strategic resources shall be nominated by
35 the Mining District for exploration and development under the 1872 mining law as amended.
36 State of the art best management practices shall apply to resource development in these reopened
37 areas.

38 **SECTION 102: IMPROVING REGULATORY ACCOUNTABILITY**

1 Any miner who prevails in an appeal shall be awarded his reasonable fees and expenses
2 of attorneys, including any expert witness charges, to be paid as provided in sections 2414 and
3 2517 of title 28, except that if the basis for the award is a finding that the United States acted in
4 bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall
5 be in addition to any relief provided in the judgment.

6 In any other case involving the exercise of rights under the 1872 Mining Act, as
7 amended, section 2412(d)(1)(A) of title 28 shall be applied without regard to the language
8 beginning with the word “unless”.

9
10 **SECTION 103: REMOVING OVERLAPPING AND DUPLICATIVE AUTHORITIES**

11 (a) 16 U.S.C. § 478 is amended by:

12 (i) Adding, after “such rules and regulations as may be prescribed by the Secretary of
13 Agriculture,” the phrase “provided, however, that neither the Secretary of Agriculture nor the
14 Secretary of Interior may prohibit or materially restrict motorized access to federal mining
15 claims over historical, visibly-existing or previously-existing trails and roads, or the reasonable
16 restoration or maintenance of such trails and roads”; and

17 (ii) Striking “for all proper and lawful purposes, including that of” and striking “the
18 rules and regulations covering such national forests” and inserting “the rules of the Department
19 of Interior concerning mineral development”.

20 (b) 16 U.S.C. § 551 is amended by adding, after “to regulate their occupancy and use
21 and to preserve the forests thereon from destruction” the phrase “provided, however, that the
22 citation for violation of any such rules and regulations, civil or criminal, is subject to immediate
23 appeal as set forth in 30 U.S.C. § 612(d).”

24 (c) 16 U.S.C. § 1604 is amended by adding a new subsection (n):

25 “Renewable Energy” resource planning shall not extend to the development of
26 mineral resources, and renewable resource planning shall be conducted to give full effect
27 to federal mineral development policy as administered by the Secretary of Interior, the
28 Bureau of Land Management and the Mining Districts.”

29 (d) 30 U.S.C. § 612 is amended by:

30 (i) adding at the end of subsection 612(b): “Provided further, that no state or political
31 subdivision of a state shall have authority to regulate any prospecting, mining or processing
32 operations upon federal lands.”

33 (ii) Adding a new subsection 612(d) as follows:

34 “Any federal unpatented mining claimant upon assertion, that any member of the
35 public or agency action endangers or materially interferes with prospecting, mining or
36 processing operations or uses reasonably incident thereto, shall have a right to file for
37 relief of such action with the local Mining District, notwithstanding any agency

1 procedures to the contrary, the Mining District determination upon such petition for relief
2 shall control over any contrary agency determination. The Mining District shall hear and
3 resolve petitions and controversies pursuant to this section and may be subject to de novo
4 review in district court. Relief shall be provided under 42 U.S.C. § 1983 and 18 U.S.C. §
5 241 - 242.”

6 (iii) Adding a new subsection 612(d) as follows:

7 “Individuals carrying out agency action, other than promulgating regulations, that
8 were determined by the Mining District to be in violation of this section shall not be
9 protected by qualified immunity.”

10 (iv) Adding a new subsection 612(d) as follows:

11 “Mining District determinations of the elected board shall carry judicial immunity
12 in carrying out the performance of their duties.”

13
14 **SECTION 104: UNIFORM FEDERAL REGULATION**

15 (a) 43 U.S.C. § 1702 is amended as follows:

16 (i) New subsections (q), (r) are added:

17 “(q) ‘mine operator’ means any person or entity exercising rights of or
18 through the holder of a federal unpatented mining claim.

19 “(r) Generally ‘mining casual use’ means excavation and/or processing
20 (including motorized excavation and processing) of less than 1,000 cubic yards of
21 material annually per claim; or surface disturbance of less than five acres of
22 ground; use, maintenance, or occupancy of visibly-existing or previously-existing
23 roads, trails, tunnels, mill sites, refining sites, bridges, or existing mining-related
24 buildings; staging, use or occupancy of portable or removable equipment;
25 subsurface operations; or any combination of the foregoing or similarly-limited
26 mineral development activities.”

27 (b) A new section is created at 43 U.S.C § 1748(c), titled: “Administration of
28 Unpatented Mining Claims” with the following additions:

29
30 “(a) Federal unpatented mining claims are tracts of public land dedicated to the
31 particular purpose of mineral development, and the exercise of the property rights in
32 federal mining claims are to be managed exclusively in accordance with this section.”

33 “(b) Notices of Initiation (NOI)─”

34 “(i) Mine operators may proceed with mining casual use without notice
35 to the Bureau of Land Management (BLM).”

1 “(ii) Mine operators must provide a Notice of Initiation (NOI) to the
2 BLM thirty (30) days in advance of commencing mining operations beyond casual use. If
3 BLM fails to respond to the NOI within thirty (30) days, the mine operator may
4 commence operations, unless the operation involves a surface disturbance in excess of
5 100 acres, in which case BLM shall have sixty (60) days to respond.”

6 “(c) Upon receipt of a NOI, BLM shall review the proposed operations for
7 compliance with best management practices adopted with the written concurrence of the
8 local Mining District, and issue a determination as to what, if any, additional best
9 management practices are required. NOIs may be of any duration specified by the mine
10 operator, and the BLM’s determination with respect to the NOI shall remain effective for
11 so long as operations continue as specified in the NOI, and may be assigned to future
12 mine operators.”

13 “(i) Final reclamation activity in general shall only be required if a mine
14 operator and BLM geologist concur that an ore body is exhausted and that the
15 reclamation will not impede future operations. Seasonal reclamation activity may be
16 required if it will not materially interfere with future mining operations.”

17 “(ii) Reclamation bonding shall only apply if surface disturbance
18 exceeds 5 acre or 1000 cu. yards of processed material per claim. Haul roads, utility
19 roads, temporary milling sites and portable structures, and any other pre-existing land
20 disturbance shall not be included in the 5-acre calculation. Reclamation costs shall be
21 based upon the average of 3 independent bids. BLM shall recognize and give effect to
22 bonding pools through a memorandum of understanding to assist large and small mine
23 operators in meeting the requirements of this section. The bids for bonds and reclamation
24 costs may not be reviewed more often than once every 7 years. Reclamation bonds shall
25 be refunded to the mining operator within one (1) year of completion of the reclamation,
26 even if the site is subject to continuing monitoring.”

27 “(d) Any personnel employed by BLM to review an NOI shall have qualifications
28 of at least a bachelor’s degree in mine engineering with a minimum of three (3) years or
29 more experience in private sector commercial mining operations or over five (5) years
30 production mining experience in lode, placer and milling operations.”

31
32 “(e) If BLM determines that any mine operator is conducting operations
33 beyond casual use without providing an NOI, or that any mine operator is conducting
34 operations contrary to best management practices, BLM must provide formal, written
35 notice to the mine operator and the local mining district through a Notice of
36 Noncompliance. Such notice shall describe the noncompliance and shall specify the
37 action to comply and the time within which such action is to be completed, generally not
38 to exceed thirty (30) days, *provided, however*, that days during which the area of
39 operations is inaccessible shall not be included when computing the number of days
40 allowed for compliance. The requirements to issue a Notice of Non-compliance shall

1 apply whether or not the operator has a submitted NOI on file with the BLM and shall not
2 be used to shut down the entire mineral operation. Actual notice shall be presumed
3 effective when mailed by certified mail, return receipt requested to the owner of the
4 mining claim and operator of record as specified in BLM records, or personally served
5 upon the mine operator. No enforcement action, civil or criminal, may be commenced
6 until after delivery of such notice, and no adverse action may be taken against a mine
7 operator until after a hearing with the protections of 5 U.S.C. § 554. No enforcement
8 action shall halt compliant aspects of the operations that the operator qualifies under
9 casual use activities.”

10 “(f) All determinations made by the BLM pursuant this subsection involving
11 the mining claimant or operator may be appealed and heard by the local Mining District
12 pursuant to 30 U.S.C. § 612(d).”

13 “(g) All existing and future regulations, including best management practices
14 promulgated by BLM or any other federal or state agency having an effect upon federal
15 unpatented mining claims, shall be subject to the written concurrence of the local Mining
16 District and shall have no force and effect without their written concurrence.”

17 “(h) Action with respect to any NOI shall not be ‘major federal action’ within
18 the meaning of 42 U.S.C. § 4332 or ‘agency action’ within the meaning of 16 U.S.C.
19 § 1536(a)(2).”

20
21 **SECTION 105: THE MINING DISTRICTS AND THE MINERALS AND MINING**
22 **ADVISORY COUNCIL (MMAC)**

23 A new section 43 U.S.C. § 1748d is created:

24 “(a) Each federal unpatented mining claimant shall be entitled to nominate
25 persons from the region to serve a four-year term on a Minerals & Mining Advisory
26 Council (MMAC). Persons shall be eligible for application if they own an interest in a
27 federal mining claim and should have not less than five (5) years experience in a private
28 sector mining business. MMAC administrators shall be voted in by the mining claimants
29 to serve at the pleasure of the Mining Districts.”

30 “(b) Regional MMAC administrators shall facilitate communications between
31 the Mining Districts and the regional offices of BLM.”

32 “(c) MMAC shall maintain a database of the qualified traditional Mining
33 Districts and their contact information to facilitate communications between the Mining
34 Districts and the regional offices of BLM.”

35 “(d) MMAC administrators shall be available to coordinate BLM land planning
36 decisions and maintain council in order to avoid conflicts with the Mining Districts (if the
37 Mining Districts have not made such appointments).”

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SECTION 106: MANAGEMENT OF THIS ACT

- (a) BLM shall enter into a Memorandum of Understanding (MOU) with the Minerals and Mining Advisory Council (MMAC) to provide advice from mining districts concerning federal regulation of mining operations and best management practices.
- (b) The Minerals and Mining Advisory Council (MMAC) and any committees formed under the authority of this section are exempt from the Federal Advisory Committee Act (FACA).
- (c) BLM or any other Federal or State agency may enter into a MOU with the local Mining District.

SECTION 107: REVIEW AND REVISE EXISTING FEDERAL REGULATIONS

The Secretary of Interior shall review and revise existing federal regulations, including but not limited to 36 C.F.R. Part 9 and 43 C.F.R. Parts 4 and 3800, to make them congruent with this Act. The Secretary of Agriculture shall review and revise existing federal regulations to make them congruent with this Act, including but not limited to the repeal of 36 C.F.R. Part 228. Rules adopted with respect to mineral development shall be subject to the written concurrence of the local Mining Districts. No federal or State rules or regulations affecting minerals and mining shall have force and effect without the written concurrence of the local Mining Districts.

SECTION 108. MINE OPERATION EXEMPTIONS FROM THE CLEAN WATER ACT

- (a) “Mining operations which do not add any chemicals to excavated aggregate or ore, other than water, and native materials, shall not be considered an “addition of any pollutant” within the meaning of 33 U.S.C. § 1362(12).”
- (b) “Mining and processing discharges from mining and processing involving the use of biodegradable chemicals that have a Material Safety Data Sheet (MSDS) reading, “This product is not classified as dangerous for the environment,” “The risk of environmental effects is considered small”, or substantially equivalent language.”
- (c) “Suction dredge and bucket excavation mining within the natural 100 year flood plain of a water body, or operations contained through artificial impoundments to reduce offsite sediment transport comprise incidental fallback do not represent an "addition" or “discharge” under 33 U.S.C. §§ 1341, 1342 or 1344.”
- (i) “Incidental fallback” is defined as: native rock, sand, soil, or vegetative materials picked up, processed to remove or reclaim the mined metal or minerals, and then backfilled at or near the same excavation site. Offsite turbidity in connection with incidental fallback is also not an "addition" or “discharge” within the meaning of 33 U.S.C. §§ 1341, 1342 or 1344. ”

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SECTION 109: AMENDMENT OF 30 U.S.C. § 803

30 U.S.C. § 803 is amended to add the following at the end of the section:

“Provided, however, that operations without any employees, operations that hire occasional part time mine contractors or who hire other non-mining work personnel, are exempt from the provisions of this Chapter and any regulations promulgated thereunder.”

SECTION 110: FEDERAL CONSENT ON PUBLIC LANDS

No federal consent decree may be entered into or is binding which effects or affects mineral development upon federal lands without written concurrence of the local Mining District, and an opportunity for those federal unpatented mining claimants affected to be heard in connection with entry of the decree.

SECTION 111: AMENDMENT OF 30 U.S.C. § 43

30 U.S.C. § 43 is amended by adding “Any patented mineral lands whereby the State has not declared its intent to regulate surface disturbances as required by provisions of this act; the land owner or mineral operator at his/her own discretion, may continue to be regulated exclusively under federal law and this part as to surface disturbance and environmental compliance. Duplicative permitting authority by any State agency or subdivision thereof can be deemed waived by the State, at the discretion of the owner or mineral operator of the property, unless expressly disclosed in the mineral patent.”

SECTION 112: AMENDMENT OF 43 U.S.C. § 1712(e)(3)

43 U.S.C. § 1712(e)(3) is amended by substituting for the phrase “public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 1714 of this title or other action pursuant to applicable law:” and substituting the phrases “no existing federal managed lands after 1976 shall be removed from operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.), except by Act of Congress. Public lands and federal managed lands reserved under other laws prior to 1976 that have been withdrawn from mineral entry shall be reopened upon petition showing of valuable metals, minerals, or rare earths, upon concurrence of a competent geologist of the local Mining District within six (6) months, and upon submission to Congress.”

1 **SECTION 113: NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) AS IT PERTAINS**
2 **TO MINERALS AND MINING – McKeon Group LLC shall draft new title with the following**
3 **definitions:**

4 The following declaration in this Bill, “Mineral and Mining Regulatory Reform Act —A Clear
5 Path Respecting Mining Rights”, shall be to reference mining as it relates to the National
6 Defense Authorization Act. At present, the U.S. government designates over (60) different
7 materials as “strategic & critical”; minerals and mineral-based materials predominate in quantity,
8 tonnage and value. The defense logistics agency makes these purchases, as well as the defense
9 industry and private sector companies. The list includes the following metals and/or ores thereof;
10 aluminum, antimony, beryllium, bismuth, cadmium, chromium, cobalt, columbium, copper,
11 germanium, gold, iodine, lead, manganese, mercury, molybdenum, nickel, platinum,-group
12 metals, silver, tantalum, thorium, tin, titanium, tungsten, vanadium and zinc; and the following
13 minerals: fluorspar, industrial diamonds, the refractory grades of bauxite and chromite, sapphire
14 and ruby, steatite talc, and strategic grades of asbestos, graphite, mica, and quartz crystals. All of
15 these are classed as locatable minerals under the Mining Law of 1872.

16 The significance of mineral materials to national security is recognized by several current
17 laws, including the Strategic & Critical Materials Stock Piling Act of 1939, as amended in 1946
18 & 1979, the National Security Act of 1947, the Defense Production Act of 1950, the Selective
19 Service Act of 1967, the Mining and Minerals Policy Act of 1970, the National Materials and
20 Minerals Policy Research & Development Act of 1980, the National Critical Materials Act of
21 1984, and a number of acts authorizing barter of various commodities for strategic materials.
22 Furthermore, the internal revenue code gives clear recognition to the importance of strategic
23 minerals by assigning higher depletion rates to those with higher strategic significance.
24 This bill references the 1872 Mining Law and the National Defense Authorization Act, which are
25 convolute, in accordance with access to public lands & production (to include private property
26 and the right of self-initiation for discovery by the individual miner. See the “The Mining Law
27 of 1872: A Legal and Historical Analysis” by the National Legal Center for the Public Interest
28 Library of Congress #89-061085, ISBN #0-937299-14-6 Published June 1989.

29
30 The NDAA references by section and chapter to be modified and the sake of this bill,
31 “Mineral and Mining Regulatory Reform Act —A Clear Path Respecting Mining Rights”, are as
32 follows; (Resource from 2012 NDAA)

33
34 **1. SEC 851; Subtitle E- Defense Industrial Base.**

35 This Section of the NDAA shall be amended to read;

- 36
37 (a) “No Public Land shall be made off limits for any reason, until such time as geology
38 reports establish that there are an absence of rare earth minerals, precious
39 metals and microbial’s, and in accordance with the 1872 Mining Law and this Act,
40 “Mineral and Mining Regulatory Reform Act — A Clear Path Respecting Mining
41 Rights”,
42

43 **2. SEC 852;**

44 Strategy for securing the defense supply chain and industrial supply chain base.

45 This Section of the NDAA shall be amended to read;

1 “To be meaningful to modern society all present and future commodity demands for agriculture,
2 construction, medical science, manufacturing, and national defense must be considered.”

3 “Long term national economic stability and military survival favors the society with the most
4 diverse, accessible, productive and secure energy and mineral resource base. This takes long
5 term commitment as it can take many years to find and bring mineral resources to market.”

6 “In the event of natural disaster or wartime readiness, there is a requirement that these resources
7 are guaranteed as available and uninterrupted for domestic and military security.”

8 “(a) In accordance with WWII practices, minerals, metals & microbial; mining shall
9 be recognized as a a critical asset to U.S. military and domestic production, to be
10 protected and defended under all circumstances.”

11 “(b) Appraising energy and mineral resources is a constant emerging science.
12 All historical geological reports of minerals, metals, rare earths, and microbials
13 shall be organized and maintained by the U.S Geological Survey (USGS) and
14 maps retrieved from USGS to establish a comprehensive data-base.”

15 “(c) In order to guarantee that the Defense Logistics Agency and domestic
16 production have and maintain a long term industrial supply chain established for
17 war readiness, and domestic economic security/stability;”

18 “(1). The NDAA hereby authorizes The United State Geological Survey road
19 maps shall be hereby be recognized by their (5) original classes in order to
20 guarantee access is recovered and recognized allowing for mineral and
21 mining access, entry, discovery, exploration, and extraction.”

22 “(d) As a matter of national policy the following objective shall be recognized;
23 Rare earths, minerals and metals are now a strategic items for military and
24 require domestic production, to insure economic and military security. This
25 includes energy efficiency and due to the extreme number of years required
26 for discovery, exploration, extraction and production, the U.S. mining shall
27 strategically be positioned in such a fashion, that in the event that foreign
28 supplies were to be disrupted, U.S. production could maintain 100% of its
29 capacity as a National Policy. Therefore all consideration shall be afforded to
30 the mining industry in accordance with these objectives.”

31
32 **3. SEC 853; Assessment of feasibility and advisability of establishment of rare earth material**
33 **Inventory. This Section shall be modified to read;**

1 “Domestic United States mining operations shall be established as the first point of
2 contact, and domestic mining shall be organized as a war readiness asset, under this Bill,
3 “Mineral and Mining Regulatory Reform Act — A Clear Path Respecting Mining
4 Rights”; able to provide as close to 100% of all U.S. Dept. of Defense contract orders as
5 can be accomplished through the private miner under their respective mining districts
6 administered by the Mining Districts and BLM under their MOU.
7

8 **4.** DOD, DLA, Dept. of Treasury, shall use USGS as the point of contact for all geology reports
9 and consolidation of reports that were abandoned when the Bureau of Mines was dissolved, in
10 accordance with the WW-II era practices that searched out U.S. resources in order to find, locate
11 and extract minerals, precious metals and rare earth materials in order to preserve and protect
12 national war readiness and national mineral independence.
13

14 **5. SEC. 863. SENSE OF CONGRESS AND REPORT ON AUTHORITIES AVAILABLE TO**
15 **THE DEPARTMENT OF DEFENSE FOR MULTIYEAR CONTRACTS FOR THE**
16 **PURCHASE OF ALTERNATIVE FUELS.**

17 This Section shall be amended to read as follows;
18

19 (a) “Domestic mining shall be the first and foremost resource for all acquisitions.”
20

21 **6. Chapter 12 – FEDERAL ACQUISITION INSTITUTE;**

22 This Chapter of the NDAA should be modified to state;

23 (a) “In every event domestic United States mining shall be the first point of contact for
24 acquisitions. In the event that domestic mining cannot fill the U.S. Defense Logistics
25 agencies order, then an alternate source may be addressed.”
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EXHIBIT "A"

INDUSTRIAL SUPPLY CHAIN

This is just a partial list of supply chain involvement.

Do you understand the jobs involved for one laptop? See example flow chart.

Think about one B1 Bomber!

A Real Industrial Supply Chain has not existed for years in the United States.
(Late 1800's to mid 1900's)

China has an Industrial Supply Chain!
Russia has an Industrial Supply Chain!

United States economy and living would prosper exponentially
when we have a real Industrial Supply Chain again.

