

September 12, 2022

The Honorable Chuck Schumer
Senate Majority Leader
Room S-221, The Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Room H-232, United States Capitol
Washington, D.C. 20515

Dear Speaker Pelosi, Leader Schumer, and Members of Congress,

On behalf of the undersigned, we strongly urge you to oppose any industry “side deal” to funding bills or other must pass legislation that limits the public’s voice in our government’s mining decisions. A leaked draft of a side deal to weaken and truncate environmental reviews is nothing more than the wishlist for all extractive industries—more extraction, less community input, less scrutiny of potential impacts, and less accountability when harm occurs. Our concerns include those that relate to the environmental justice impacts to communities and environmental impacts from mining and mineral processing this side deal would cause. There is no way to mitigate the damage that would be done by this side deal, it must be unequivocally rejected.

The National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), and other laws require that federal agencies study the environmental and cultural impacts of their decisions, receive public input, respond to that input, and select alternatives that best balance these considerations. Mining-affected communities depend upon these laws to learn more about mining company proposals and to suggest alternatives that will result in improved social and environmental outcomes. This is especially important since most hardrock mining occurs under the 150 year old General Mining Law—an already permissive law that encourages the mining industry to claim public lands as their own, almost entirely for free, and at great expense to the public.

One of this side deal’s many horrible facets is that it allows the mining industry to tilt the scale of our governments’ decisions even more heavily in their favor. As written, the mining company could request that federal agencies elevate their own preferred mine plans during public review, and preemptively limit the time and scope of that review. Other projects will get designated for special fast-track treatment allowing mining companies to select shorter comment periods that limit the public’s access to information and ability to meaningfully participate. Worse still, whole categories of mining or mineral processing projects may be excluded from meaningful study.

These arbitrary limits undermine the government’s obligation to prepare well-crafted, sound environmental and cultural reviews. They will encourage bare-minimum level analysis, leading to poor scientific conclusions and uninformed decisions that will impact current and future

generations. It is also an attempt to limit opportunities for the communities to voice their opinion on projects that will directly impact them.

Valuing Indigenous Traditional Ecological Knowledge and the Lived Experiences of All Mining-Affected Communities

Mines affect people from all walks of life, especially those who live in extremely remote areas with limited communication access, or who rely on seasonal subsistence or employment. Any of these factors can make it more difficult to devote the time necessary to meaningfully participate in agency processes. Effective agency reviews or consultations need to earn the trust from some mining-affected communities who understand the intergenerational trauma¹ associated² with hardrock mining and its strong correlations to violence against women and girls,³ especially Indigenous women in rural communities living close to mining activities. This violence is often committed by non-Indigenous men living in nearby “man camps.” Indigenous peoples deserve an equal voice in federal mining decisions for mines located near their homes and waters, and our public lands. Incorporating the expertise of those most impacted helps federal agencies develop project alternatives that comply with reserved treaty rights, embrace Indigenous Traditional Ecological Knowledge (ITEK),⁴ respect Indigenous peoples’ right to Free, Prior, and Informed Consent (FPIC),⁵ and earn and maintain a Social License to Operate (SLTO).

Mining has uniquely harmful impacts on communities and the environment. Studying mine proposals and their impacts needs to be comprehensive and remain flexible in order to adjust to contingencies and challenges as they unfold. According to the Government Accountability Office (GAO),⁶ the primary challenge agencies face permitting mines stems from untimely or incomplete information provided by permit applicants. These data gaps are the primary cause of mine permitting delays and underscore the need for quality reviews, rather than speedy ones. This is especially true for protecting cultural, historical, ecological, and tribal resources. Mines

¹ U.S. Department of the Interior, “Secretary Haaland Takes Equity and Inclusion to the Next Level at SXSW,” <https://www.doi.gov/pressreleases/secretary-haaland-takes-equity-and-inclusion-next-level-sxsw>

² June Lorenzo, “Gendered Impacts of Jackpile Uranium Mining on Laguna Pueblo,” <https://repository.usfca.edu/cgi/viewcontent.cgi?article=1053&context=ijhre>

³ The National Congress of American Indians, “Resolution #ANC-22-007 TITLE: Supporting Indigenous Safety through Opposing Man-Camps for Thacker Pass,” <https://ncai.assetbank-server.com/assetbank-ncai/assetfile/1948.pdf>

⁴ The White House, “White House Commits to Elevating Indigenous Knowledge in Federal Policy Decisions,” <https://www.whitehouse.gov/ostp/news-updates/2021/11/15/white-house-commits-to-elevating-indigenous-knowledge-in-federal-policy-decisions/>

⁵ Indigenous Rights and Resource Governance Research Group, “FPIC: The Right to Decide,” <https://whatis.fpic.info/>

⁶ Government Accountability Office, “Hardrock Mining: BLM and Forest Service Have Taken Some Actions to Expedite the Mine Plan Review Process but Could Do More,” <https://www.gao.gov/products/gao-16-165>

produce vast quantities of toxic waste that often must be managed effectively forever. Chronic seepage and sudden accidental releases to the environment⁷ are the norm.

Mines vary in hydrology, geology, and engineering, requiring expert opinions across many technical disciplines, including ITEK. Occasionally, experts can conduct reviews concurrently. However, in some cases, the results of one study may form some of the inputs for a subsequent review. Where they occur consecutively, rigid timelines could undermine the quality of the science. All of this suggests that we need more rigorous and consistent mining regulation and review processes to reduce the damage and public costs imposed by mining- not processes that remove science and community input.

Environmental Justice for All

Congress must unequivocally reject this side deal, and any other legislation that weakens our core environmental laws, undermines the cause of environmental justice or further benefits the fossil fuel industry.

There is a right way to address NEPA and environmental justice concerns through passing legislation in normal order to accomplish the protections and process needed to uplift communities and their concerns. These are found in the Environmental Justice for All⁸ and Requirements, Expectations, and Standard Procedures for Effective Consultation with Tribes (RESPECT)⁹ Acts (HR 2021 and HR 3587, respectively). These bills, led by Reps. Grijalva and McEachin, strengthen NEPA, the Civil Rights Act, and tribal consultation mechanisms to help ensure our government listens to frontline communities and empowers them to hold our government accountable. The EJ for All and RESPECT Acts are one step toward repairing the systemic racism and environmental injustice already disproportionately impacting mining communities, especially Indigenous communities.

Furthermore, Congress and the President should operationalize the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ratify the International Labor Organization's Convention 169, including upholding FPIC for extractive projects. Not all expertise is generated by the government, nor the mining industry. Our government should embrace these internationally recognized principles that value and empower the expertise of frontline

⁷ Earthworks, "Track Record: Montana Modern Hardrock Mining Water Quality Impacts and Reclamation Bonding," <https://earthworks.org/resources/mt-track-record-report/>

⁸ Congress.gov, "H.R.2021 - Environmental Justice For All Act," <https://www.congress.gov/bill/117th-congress/house-bill/2021?q=%7B%22search%22%3A%5B%22Environmental+Justice+for+All+Act%22%2C%22Environmental%22%2C%22Justice%22%2C%22for%22%2C%22All%22%2C%22Act%22%5D%7D&s=3&r=2>

⁹ Congress.gov, "H.R.3587 - Requirements, Expectations, and Standard Procedures for Effective Consultation with Tribes Act," <https://www.congress.gov/bill/117th-congress/house-bill/3587?q=%7B%22search%22%3A%5B%22hr+3587%22%2C%22hr%22%2C%223587%22%5D%7D&s=1&r=1>

Indigenous communities. Under no circumstances should Congress cut any deals made on the backs of some of the most marginalized peoples and communities in the US.

Sincerely,

1000 Grandmothers for Future Generations

350 Bay Area Action

350 Triangle

350 Ventura County Climate Hub

350Colorado

350Hawaii

Accelerate Neighborhood Climate Action

Ahmud Pipa Foundation

Alaska Community Action on Toxics

Alaska Wilderness League

Arizona Mining Reform Coalition

Arkansas Valley Conservation Coalition

Basin and Range Watch

Biofuelwatch

Build Back Better

Businesses for a Livable Climate

California Communities Against Toxics

Call to Action Colorado

Capitol Heights Presbyterian

CatholicNetwork US

Catskill Mountainkeeper

Center for Biological Diversity

Change Begins With ME (Indivisible)

Citizen's Alliance for a Sustainable Englewood

Citizens to Protect Smith Valley (Nevada)

Clean Energy Action

CLEO Institute

Climate Action Campaign of the Humboldt Unitarian Universalist Fellowship

Climate Crisis Policy

Climate Hawks Vote

CO Businesses for a Livable Climate

CO Dem. Party - Energy & Environmental Initiative

Coalition to SAVE the Menominee River, Inc.

COCRN Colorado Community Rights Network

Community for Sustainable Energy

Conejo Climate Coalition
Cook Inletkeeper
Cooperative Energy Futures
Cultural Survival
Dawson Ranch Homeowners Association
Denver DSA
Earth Ethics, Inc
Earthjustice
Earthworks
Empower Our Future
Endangered Species Coalition
Extinction Rebellion Delaware
Forest Keeper
Fox Valley Citizens for Peace & Justice
FreshWater Accountability Project
Friends Committee on National Legislation
Friends For Environmental Justice
Friends of Big Ivy
Friends of Buckingham
Friends of the Earth
Friends of the Inyo
Friends of the Kalmiopsis
Future Generations PAC
Gila Resources Information Project
Global Witness
Great Basin Resource Watch
Great Bear Foundation
Greater New Orleans Housing Alliance
Greater Park Hill Community
GreenLatinos
Honor the Earth
I Heart Pisgah
I-70 Citizens Advisory Group
Idaho Rivers United
Immaculate Heart Community
Indigenous Caucus- Western Mining Action Network
Indivisible Ambassadors
International Indigenous Fund for development and solidarity "Batani"
Kalmiopsis Audubon Society
Klamath-Siskiyou Wildlands Center

Larimer Alliance for Health, Safety, & the Environment
LAWPA (Local Authority Western PA)
LEAD Agency, Inc.
Locust Point Community Garden
Malach Consulting
Mayfair Park Neighborhood Association Board
Mennonite Central Committee U.S.
Mental Health & Inclusion Ministries
Milwaukee Riverkeeper
Mining Impact Coalition of Wisconsin
Montana Environmental Information Center
Montbello Neighborhood Improvement Association
Morongo Basin Conservation Association
Mothers Out Front Colorado
Movement Rights
MoveOn.org HobokenRESIST
Multicultural Alliance for a Safe Environment
Native American Land Conservancy
New Mexico Climate Justice
North Carolina Climate Justice Collective
North Range Concerned Citizens
Northern Alaska Environmental Center
Observatoire D'études et D'appui à la responsabilité sociale et environnementale (OEARSE)
Occupy Biden
Ocean Conservation Research
Okanogan Highlands Alliance
Operation HomeCare, Inc.
Oregon Wild
Our Revolution Ocean County
Oxfam America
Patagonia Area Resource Alliance
Peace and Freedom Party, socialist, on the California ballot
Progressive Leadership Alliance of Nevada
Property Rights and Pipeline Center
Protect Our Water, Heritage, Rights
Publish What You Pay - US
Rachel Carson Council
RapidShift Network
Richland Friends Meeting
Rogue Climate

Royal Gorge Preservation Project
Salmon Beyond Borders
Sandy Lake Band of Mississippi Chippewa
Saphron Initiative
Save EPA (former employees)
Save Our Sky Blue Waters
Save The Scenic Santa Ritas
Seven Circles Foundation
Sierra Club
Sierra Mountain Center
Small Business Alliance
SoCal 350 Climate Action
Social Eco Education
Soda Mountain Wilderness Council
SOMA Action
Southeast Alaska Conservation Council
Southern Utah Wilderness Alliance
Southwest Organization for Sustainability
Spirit of the Sun, Inc.
St. Columban Mission for Justice, Peace and Ecology
Sunflower Alliance
Sunnyside United Neighbors, inc (SUNI)
System Change Not Climate Change
Terra Advocati
The Alliance for Appalachia
The Green House Connection Center
The Quantum Institute
The Wilderness Society
Tó Nizhóní Ání
Tucson Audubon Society
Turtle Island Restoration Network
UCAN
Unitarian Universalist Congregation of Petoskey (MI) - member only, not representative
Unite North Metro Denver
Unite North Metro Denver
Vets for Peace
Vibrant Littleton
Vote Climate
Wall of Women
West Berkeley Alliance for Clean Air and Safe Jobs

Western Slope Businesses for a Livable Climate
Wilwerding Consulting, also Co-Chair, Littleton Business Alliance
Wisconsin Resources Protection Council
Women's Earth and Climate Action Network (WECAN)
Womxn from the Mountain
Working for Racial Equity