

Congress of the United States
Washington, DC 20515

April 27, 2021

Secretary Debra Haaland
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Pennsylvania Avenue, S.W.
Washington, DC 20250

Dear Secretary Haaland and Secretary Vilsack,

Congratulations on your respective confirmations as our nation's 54th Secretary of the Interior and 32nd Secretary of Agriculture. We know that you both will fulfill your duties in a manner that both preserves and protects our nation's public lands and natural resources, while restoring the sacred trust between the federal government and indigenous communities. We look forward to working with you on these shared priorities.

One area that merits immediate attention by the Biden Administration is modernizing hardrock mining policy on public lands, still governed by a law nearly 150 years old. According to the Environmental Protection Agency (EPA), the mining industry is the nation's most polluting industry.¹ Even with modern technology, accidental acid seepage and waste releases are commonplace, and threats to local communities, fisheries, drinking water and cultural resources persist for decades—if not in perpetuity—after a mine is no longer in operation. This is not a theoretical problem of risk management: according to one study, more than seventy-five percent of all mines fail to meet water quality standards,² and the EPA has found that forty percent of all watersheds in the Western United States are contaminated by hardrock mine drainage.³ Mining operations have had devastating impacts on indigenous communities, polluting their water and obliterating their sacred sites. Without stronger regulations from the federal government, hardrock mining will continue to pose an unacceptable risk to our nation's natural resources and public health.

Here in Congress, we are working to pass legislation that ends the obsolete system put in place by the Mining Law of 1872, and replace it with a modern leasing system designed to protect the interests of American taxpayers and our nation's public lands. As work on this legislation continues, the Biden Administration should take steps to reduce new mine waste pollution, clean-

¹ Environmental Protection Agency (2017), *Toxic Release Inventory: Comparing Industry Sectors*. <https://www.epa.gov/trinationalanalysis/comparing-industry-sectors>.

² Earthworks (2005), *Predicting Water Quality at Hardrock Mines*. https://www.ceaa-acee.gc.ca/050/documents_staticpost/cearref_3394/hearings/SM09.pdf

³ Environmental Protection Agency (2000), *Liquid Assets 2000: Americans Pay for Dirty Water*. <http://water.epa.gov/lawsregs/lawguidance/cwa/economics/liquidassets/dirtywater.cfm>

up existing mine sites, protect public health, and close loopholes used by mining companies to evade their legal obligations. Specifically, we request that you update federal safeguards to:

- Establish meaningful Tribal consultation and Indigenous resource protections. Consultations and regulations on mining should seek to achieve the Free, Prior, and Informed Consent (FPIC) of Indigenous communities.
- Clarify that federal land managers have the authority to decide whether or not to approve mining plans of operations, including the authority to reject proposals that will likely cause substantial irreparable harm to important natural and cultural resources, or which require water treatment in perpetuity.
- Exercise existing statutory and regulatory authorities to minimize or prohibit harm to natural and/or cultural resources from tailings and waste piles proposed or located on lands that do not contain a valuable mineral deposit. Placement of such material may only occur pursuant to Section 42 of the General Mining Law, which allows miners to claim and patent up to 5 acres per mining claim.
- Specify detailed performance standards for hardrock mining operations.
- Require best practices for managing mine waste tailings.
- Require adequate up-front financial assurances to cover all reclamation costs, including those for long-term water treatment.
- Establish an enforcement system that holds violators clearly accountable.
- Put in place a system of fees to require mine operators to defray the necessary costs of inspections, environmental reviews, and other administrative functions so government regulators have sufficient resources to carry out their responsibilities.
- Require mining companies to plan for expected impacts of climate change and changing weather patterns, such as increased precipitation levels, on mining operations.

With thoughtful planning and strengthened policies, your respective agencies can ensure that domestic production of hardrock metals like gold, silver, and copper does not negatively impact the sustainable use and enjoyment of our nation's public lands, the quality of our natural resources, and the public health of our communities. We respectfully request that the Department of the Interior and the Department of Agriculture promptly organize an interagency group and begin work updating these environmental safeguards as soon as practicable.

Sincerely,



Raúl M. Grijalva
Member of Congress



Alan Lowenthal
Member of Congress

/s/

Grace Napolitano
Member of Congress

/s/

Mondaire Jones
Member of Congress

/s/

Earl Blumenauer
Member of Congress

/s/

Steve Cohen
Member of Congress

/s/

Ro Khanna
Member of Congress

/s/

Katie Porter
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/s/

Eleanor Holmes Norton
Member of Congress

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Danny K. Davis
Member of Congress

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Jared Huffman
Member of Congress

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Henry C. "Hank" Johnson Jr.
Member of Congress

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Tony Cárdenas
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Jerry McNerney
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Peter DeFazio
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/s/

Nydia M. Velázquez
Member of Congress

/s/

Rashida Tlaib
Member of Congress