

1 114th Congress
2 2nd session

3 **H.R.** _____
4

5 IN THE HOUSE OF REPRESENTATIVES

6 July 26th, 2015

7
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**

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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

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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 and FEDERAL LANDS.--** Public lands and federal lands for
31 the purposes of this section shall mean all federally administered lands and
32 interests administered by Secretary of Interior under the National Park Service and

1 Bureau of Land Management, and by the Department of Agriculture under the
2 United States Forest Service, located within the United States.

3 **2.** MEMORANDUM OF UNDERSTANDING.-- “MOU”.

4 **3.** BUREAU OF LAND MANAGEMENT; “BLM”.

5 **4.** MINING DISTRICTS.-- Mining Districts are local independently organized
6 governing authorities, recognized by the Department of the Interior through a
7 Memorandum of Understanding (MOU) with the Bureau of Land Management
8 (BLM), for the joint and exclusive minerals and mining management on the public
9 and federal lands of the United States, recognized under 30 U.S.C. § 22; subject to
10 other federal and state laws the local Mining Districts determine, do not
11 unreasonably materially interfere with mining claimants right to possess, explore,
12 prospect, develop and extract, pursuant to 30 U.S.C. § 612(b).

13 **5.** MINERALS AND MINING ADVISORY COUNCIL (MMAC).-- A U.S. based
14 company charged with certifying traditional Mining Districts within the United
15 States for the purpose of modern Federal recognition. MMAC is responsible for
16 assisting the Mining Districts in all matters pertaining to proper administration;
17 and maintenance of the Mining District and mineral/metal reserve database
18 (Federal and private mineral inventory) submitted into the U.S. Geographic
19 Information System (GIS).

20 **6.**

21 **7.** SECRETARY; Secretary refers to the Secretary of the Interior.

22 **8.** MINING CLAIMANT.-- A U.S. citizen or U.S. Corporation who/which owns the
23 mineral rights pursuant to the U.S. Mining laws on a tract of public or federal land,
24 recognized under 30 U.S.C. §§ 22 – 54.

25 **9.** RENEWABLE ENERGY; Renewable energy includes anything considered or mentioned
26 as renewable energy, renewable energy origination sites and all energy transport facilities
27 meaning any facility used for the operation, maintenance, transmission, distribution, or
28 transportation of electricity or natural gas.

29 **10.** NATIONAL DEFENSE AUTHORIZATION ACT; “NDAA”

30 **11.** DEPARTMENT OF DEFENSE; “DOD”

31 **12.** DEFENSE LOGISTIC AGENCY; “DLA”

32 **13.** UNITED STATES GEOLOGICAL SURVEY; “USGS”

33 **14.** BEST MANAGEMENT PRACTICES; A practice, or combination of practices, that is
34 determined to be an effective and practicable (including technological, economic, and
35 institutional considerations) means of preventing or reducing the impacts to the air, water,

1 soil and wildlife; while not unreasonably materially interfering with a federal unpatented
2 mining claimants rights.

3 **15.** ACCESS ROADS; Recorded ingress and egress directional travel paths, trails and or
4 roads mapped originally by the United States Geological Survey (USGS) starting in 1879
5 or mapped by Mines and Mineral Resources or any Divisions of Mines and Geology
6 thereof. This includes whether they are currently visible or not. If they existed and were
7 mapped any time to present day, they shall be recognized as roads or travel paths today.

8 **16.** Roads also shall be defined as 5 classes of roads, designated by the United States
9 Geological Survey (the official map making agency of the United States), the mapping of
10 the Department Of Interior, and those maps created by the military.

11 Class 1: Primary highway federal and state.

12 Class 2: Secondary highway state and county.

13 Class 3: Light duty paved or unimproved.

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

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

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

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

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

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

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

6 **SECTION 101: FINDINGS**

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

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



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18 Conflicting State and Federal permit systems were raised even as far back as 1987 in *CA Coastal*
19 *Commission v. Granite Rock* by the words of U.S. Supreme court Justice Powell: “In summary,
20 it is fair to say that, commencing in 1872, Congress has created an almost impenetrable maze of

1 arguably relevant legislation in no less than a half-dozen statutes, augmented by the regulations
2 of two Departments of the Executive. There is little cause for wonder that the language of these
3 statutes and regulations has generated considerable confusion. There is an evident need for
4 Congress to enact a single, comprehensive statute for the regulation of federal lands. Having
5 said this, it is at least clear that duplicative federal and state permit requirements create an
6 intolerable conflict in decision making. In view of the Property Clause of the Constitution, as
7 well as common sense, federal authority must control with respect to land belonging to the
8 United States..."

9 **Mineral development necessarily must proceed where minerals are located, and**
10 **while best management practices can minimize environmental effects, requirements to**
11 **adopt practices to mitigate environmental effects shall not materially interfere with**
12 **mineral development.**

13

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

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

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

1 defense industries.

2 A single mineral discovery can change the world we live in. Three prospectors in 1949 were
3 exploring for uranium in the Mojave Desert, hoping to cash in on the Atomic Energy
4 Commission's \$10,000 bonus for discovery of a uranium deposit. Instead they stumbled on a
5 little known rare earth bearing mineral bastnasite. It contained more than ten percent rare earths.
6 There had never been so much rare earths found in one place and there was very little market for
7 their discovery at that time. Prior to this act their mining claims would not be economic nor
8 valid under the Mining laws of the United States. However, their accidental discovery sparked
9 the high tech revolution making the United States the leader in technology. These rare earths are
10 now a strategic item for everything from color television, to pollution free electric cars, flat
11 computer and television screens, medical imaging devices that detect cancer earlier, lasers, smart
12 bombs, and catalytic converters. Modern military forces cannot have a credible defense or
13 offense without rare earths.

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

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

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

36 In the United States we have withdrawn from exploration and mineral entry an area nearly the
37 size of California during the last century. Most of these areas were closed before we knew
38 society's need for these new high tech elements. Therefore each area withdrawn from mineral
39 entry shall be subject to review every ten (10) years, by technically qualified members of the

1 private sector, academia, military and agencies with expertise in economic geology. Public
2 hearings and a formal investigation shall be completed within one year of the on site
3 examinations of the previously closed area. Findings and recommendations shall be available to
4 the public and the local Mining District. Estimates of the potential value and importance of
5 identified mineral resource shall be made available to Congress, the public and the local Mining
6 District. Areas of significant economic and militarily strategic resources shall be nominated by
7 the Mining District for exploration and development under the 1872 mining law as amended.
8 State of the art best management practices shall apply to resource development in these reopened
9 areas.

10 **SECTION 102: IMPROVING REGULATORY ACCOUNTABILITY**

11 Any federal unpatented mining claimant who prevails in a petition to the Mining District
12 shall be awarded his reasonable fees and expenses of attorneys, including any expert witness
13 charges, to be paid as provided in sections 2414 and 2517 of title 28, except that if the basis for
14 the award is a finding that the United States acted in bad faith, then the award shall be paid by
15 any agency found to have acted in bad faith and shall be in addition to any relief provided in the
16 judgment.

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

20

21 **SECTION 103: REMOVING OVERLAPPING AND DUPLICATIVE AUTHORITIES**

22 (a) 16 U.S.C. § 478 is amended by:

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

28 (ii) Striking “for all proper and lawful purposes, including that of” and striking “the
29 rules and regulations covering such national forests” and inserting “the rules of the Department
30 of Interior and Mining District concerning mineral development”.

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

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

36 “Renewable Energy” resource planning shall not extend to the development of
37 mineral resources, and renewable resource planning shall be conducted to give full effect

1 to federal mineral development policy as administered by the Secretary of Interior, the
2 Bureau of Land Management and the Mining Districts.”

3 (d) 30 U.S.C. § 612 is amended by:

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

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

8 “Any federal unpatented mining claimant may petition the local Mining District
9 that any member of the public or agency action endangers or materially interferes with
10 prospecting, mining or processing operations or uses reasonably incident thereto. The
11 Mining District shall hear and resolve petitions and grant relief for controversies pursuant
12 to this section, under 42 U.S.C. § 1983 and 18 U.S.C. §§ 241 - 242; subject to de novo
13 review in district court. Mining District determinations shall supersede any conflicting
14 agency determination.”

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

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

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

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

22
23 **SECTION 104: UNIFORM FEDERAL REGULATION**

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

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

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

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

1 (b) A new section is created at 43 U.S.C § 1748(c), titled: “Administration of
2 Unpatented Mining Claims” with the following additions:
3

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

7 “(b) Notices of Initiation (NOI)–”

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

10 “(ii) Mine operators must provide a Notice of Initiation (NOI) to the
11 BLM thirty (30) days in advance of commencing mining operations beyond casual use. If
12 BLM fails to respond to the NOI within thirty (30) days, the mine operator may
13 commence operations, unless the operation involves a surface disturbance in excess of
14 100 acres, in which case BLM shall have sixty (60) days to respond.”

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

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

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

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

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“(e) If BLM determines that any mine operator is conducting operations beyond casual use without providing an NOI, or that any mine operator is conducting operations contrary to best management practices, BLM must provide formal, written notice to the mine operator and the local mining district through a Notice of Noncompliance. Such notice shall describe the noncompliance and shall specify the action to comply and the time within which such action is to be completed, generally not to exceed thirty (30) days, *provided, however*, that days during which the area of operations is inaccessible shall not be included when computing the number of days allowed for compliance. The requirements to issue a Notice of Non-compliance shall apply whether or not the operator has a submitted NOI on file with the BLM and shall not be used to shut down the entire mineral operation. Actual notice shall be presumed effective when mailed by certified mail, return receipt requested to the owner of the mining claim and operator of record as specified in BLM records, or personally served upon the mine operator. No enforcement action by any agency, civil or criminal, may be commenced until after delivery of such notice, and no adverse action may be taken against a mine operator until after a hearing with the protections of 5 U.S.C. § 554. No enforcement action shall halt compliant aspects of the operations that the operator qualifies under casual use activities.”

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

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

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

SECTION 105: THE MINING DISTRICTS AND THE MINERALS AND MINING ADVISORY COUNCIL (MMAC)

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

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

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

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

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

9
10
11 **SECTION 106: MANAGEMENT OF THIS ACT**

12 (a) BLM shall enter into a Memorandum of Understanding (MOU) with the Minerals
13 and Mining Advisory Council (MMAC) to provide advice from mining districts
14 concerning federal regulation of mining operations and best management practices.

15 (b) The Minerals and Mining Advisory Council (MMAC) and any committees
16 formed under the authority of this section are exempt from the Federal Advisory
17 Committee Act (FACA).

18 (c) BLM or any other Federal or State agency may enter into a MOU with the local
19 Mining District.

20
21 **SECTION 107: REVIEW AND REVISE EXISTING FEDERAL REGULATIONS**

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

29
30 **SECTION 108. MINE OPERATION EXEMPTIONS FROM THE CLEAN WATER ACT**

31 (a) “Mining operations which do not add any chemicals to excavated
32 aggregate or ore, other than water, and native materials, shall not be considered an “addition of
33 any pollutant” within the meaning of 33 U.S.C. § 1362(12).”

34 (b) “Mining and processing discharges from mining and processing involving
35 the use of biodegradable chemicals that have a Material Safety Data Sheet (MSDS) reading,

1 “This product is not classified as dangerous for the environment,” “The risk of environmental
2 effects is considered small”, or substantially equivalent language.”

3 (c) “Suction dredge and bucket excavation mining within the natural 100 year
4 flood plain of a water body, or operations contained through artificial impoundments to reduce
5 offsite sediment transport comprise incidental fallback and do not represent an "addition" or
6 “discharge” within the meaning of 33 U.S.C. §§ 1341, 1342 or 1344.”

7 (i) “Incidental fallback” is defined as: native rock, sand, soil, or vegetative
8 materials picked up, processed to remove or reclaim the mined metal or minerals, and
9 then backfilled at or near the same excavation site. Offsite turbidity in connection with
10 incidental fallback is also not an "addition" or “discharge” within the meaning of 33
11 U.S.C. §§ 1341, 1342 or 1344. ”

12
13 **SECTION 109: AMENDMENT OF 30 U.S.C. § 803**

14 30 U.S.C. § 803 is amended to add the following at the end of the section:

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

18
19 **SECTION 110: FEDERAL CONSENT ON PUBLIC LANDS**

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

24
25 **SECTION 111: AMENDMENT OF 30 U.S.C. § 43**

26 30 U.S.C. § 43 is amended by adding “Any patented mineral lands whereby the State has not
27 declared its intent to regulate surface disturbances as required by provisions of this act; the land
28 owner or mineral operator at his/her own discretion, may continue to be regulated exclusively
29 under federal law and this part as to surface disturbance and environmental compliance.
30 Duplicative permitting authority by any State agency or subdivision thereof can be deemed
31 waived by the State, at the discretion of the owner or mineral operator of the property, unless
32 expressly disclosed in the mineral patent.”

33
34 **SECTION 112: AMENDMENT OF 43 U.S.C. § 1712(e)(3)**

1 43 U.S.C. § 1712(e)(3) is amended by substituting for the phrase “public lands shall be removed
2 from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30
3 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal
4 action pursuant to section 1714 of this title or other action pursuant to applicable law.” and
5 substituting the phrases “no existing federal managed lands after 1976 shall be removed from
6 operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.),
7 except by Act of Congress. Public lands and federal managed lands reserved under other laws
8 prior to 1976 that have been withdrawn from mineral entry shall be reopened upon petition
9 showing of valuable metals, minerals, or rare earths, upon concurrence of a competent geologist
10 of the local Mining District within six (6) months, and upon submission to Congress.”

11
12
13 **SECTION 113: NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) AS IT PERTAINS**
14 **TO MINERALS AND MINING –**

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

27 The significance of mineral materials to national security is recognized by several current
28 laws, including the Strategic & Critical Materials Stock Piling Act of 1939, as amended in 1946
29 & 1979, the National Security Act of 1947, the Defense Production Act of 1950, the Selective
30 Service Act of 1967, the Mining and Minerals Policy Act of 1970, the National Materials and
31 Minerals Policy Research & Development Act of 1980, the National Critical Materials Act of
32 1984, and a number of acts authorizing barter of various commodities for strategic materials.
33 Furthermore, the internal revenue code gives clear recognition to the importance of strategic
34 minerals by assigning higher depletion rates to those with higher strategic significance.
35 This bill references the 1872 Mining Law and the National Defense Authorization Act, which are
36 convolute, in accordance with access to public lands & production (to include private property
37 and the right of self-initiation for discovery by the individual miner. See the “The Mining Law
38 of 1872: A Legal and Historical Analysis” by the National Legal Center for the Public Interest
39 Library of Congress #89-061085, ISBN #0-937299-14-6 Published June 1989.

40
41 The NDAA references by section and chapter to be modified and the sake of this bill,
42 “Mineral and Mining Regulatory Reform Act —A Clear Path Respecting Mining Rights”, are as
43 follows; (Resource from 2012 NDAA)

44
45 **1. SEC 851; Subtitle E- Defense Industrial Base.**

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

- 2
3 (a) “No Public Land shall be made off limits for any reason, until such time as geology
4 reports establish that there are an absence of rare earth minerals, precious
5 metals and microbial’s, and in accordance with the 1872 Mining Law and this Act,
6 “Mineral and Mining Regulatory Reform Act — A Clear Path Respecting Mining
7 Rights”,
8

9 **2. SEC 852;**

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

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

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

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

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

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

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

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

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

33 “(d) As a matter of national policy the following objective shall be recognized;
34 Rare earths, minerals and metals are now a strategic items for military and
35 require domestic production, to insure economic and military security. This

1 includes energy efficiency and due to the extreme number of years required
2 for discovery, exploration, extraction and production, the U.S. mining shall
3 strategically be positioned in such a fashion, that in the event that foreign
4 supplies were to be disrupted, U.S. production could maintain 100% of its
5 capacity as a National Policy. Therefore all consideration shall be afforded to
6 the mining industry in accordance with these objectives.”

7
8 **3. SEC 853; Assessment of feasibility and advisability of establishment of rare earth material**
9 **Inventory. This Section shall be modified to read;**

10 “Domestic United States mining operations shall be established as the first point of
11 contact, and domestic mining shall be organized as a war readiness asset, under this Bill,
12 “Mineral and Mining Regulatory Reform Act — A Clear Path Respecting Mining
13 Rights”; able to provide as close to 100% of all U.S. Dept. of Defense contract orders as
14 can be accomplished through the private miner under their respective mining districts
15 administered by the Mining Districts and BLM under their MOU.
16

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

22
23 **5. SEC. 863. SENSE OF CONGRESS AND REPORT ON AUTHORITIES AVAILABLE TO**
24 **THE DEPARTMENT OF DEFENSE FOR MULTIYEAR CONTRACTS FOR THE**
25 **PURCHASE OF ALTERNATIVE FUELS.**

26 This Section shall be amended to read as follows;

27
28 (a) “Domestic mining shall be the first and foremost resource for all acquisitions.”
29

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

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

32 (a) “In every event domestic United States mining shall be the first point of contact for
33 acquisitions. In the event that domestic mining cannot fill the U.S. Defense Logistics
34 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.

