



January 31, 2024

The Honorable Sam Graves  
Chairman  
Committee on Transportation and  
Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Rick Larsen  
Ranking Member  
Committee on Transportation and  
Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Graves, Ranking Member Larsen, and Members of the Committee:

On behalf of the National Mining Association (NMA) and its more than 280 members, I write in strong support of the suite of bills within H.R. 7023, *Creating Confidence in Clean Water Permitting Act*, that will streamline the Clean Water Act (CWA) permitting process.<sup>1</sup> I encourage the committee to report these bills favorably to the full House of Representatives.<sup>2</sup>

The NMA is the official voice of the U.S. mining industry. Our members mine the raw materials needed for *nearly every* industry and consumer product. The coal, metals, and industrial and agricultural minerals NMA members produce form the foundation of our nation's energy, infrastructure, manufacturing, defense, and medical supply chains. From the metals and minerals needed to manufacture electric vehicles and semiconductors, to the coal needed to heat homes and produce steel for our nation's infrastructure projects, mined materials are the lifeblood of our modern world and are essential to achieving this Administration's ambitious policy priorities.

During this time of heightened geopolitical and economic uncertainty, we must ensure that America has abundant and affordable energy and the raw materials needed to support U.S. manufacturing, national security, and economic prosperity while protecting our environment and communities.<sup>3</sup> One way to do that is by streamlining the CWA

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<sup>1</sup> Reducing Permitting Uncertainty Act, H.R. 7206, 118<sup>th</sup> Cong. (2024); Confidence in Clean Water Permits Act, H.R. 7013, 118<sup>th</sup> Cong. (2024); Water Quality Criteria Development and Transparency Act, H.R. 7021, 118<sup>th</sup> Cong. (2024); Nationwide Permitting Improvement Act, H.R. 7203, 118<sup>th</sup> Cong. (2024); Judicial Review Timeline Clarity Act, H.R. 7008, 118<sup>th</sup> Cong. (2024).

<sup>2</sup> The NMA also endorses a letter of support filed by the Waters Advocacy Coalition.

<sup>3</sup> The White House, Fact Sheet: Securing a Made in America Supply Chain for Critical Minerals (Feb. 22, 2022), available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/22/fact-sheet-securing-a-made-in-america-supply-chain-for-critical-minerals/> (last visited Jan. 31, 2024). ("Critical minerals provide the building blocks for many modern technologies and are essential to our national security and economic prosperity.")

permitting process. The private sector needs fair, consistent, and predictable CWA permitting processes to support our national priorities and remain competitive in the global economy. But for too long, regulatory uncertainty in the CWA permitting process has delayed projects, chilled investment in U.S. mining operations, and inhibited the ability to mine the raw materials on which our nation depends.

These targeted legislative reforms are a welcome step toward streamlining and clarifying the CWA permitting process. We especially support H.R. 7206, the *Reducing Permitting Uncertainty Act*, introduced by Rep. Pete Stauber (R-Minn.) included in H.R. 7023. The NMA and broader regulated community have long supported fairness and predictability in the CWA section 404(c) process.<sup>4</sup>

Importantly, the bill's clarifications on when the U.S. Environmental Protection Agency (EPA) can exercise its CWA section 404(c) veto authority for future projects will promote regulatory certainty to help secure investment in U.S. operations and shore up our energy, infrastructure, manufacturing, and mining supply chains. The U.S. already has one of the longest mining permitting processes in the world. It typically can take seven to 10 years to secure the permits needed to commence operations in the U.S., with some mines more than two decades into the permitting process. To put that into perspective, in Canada and Australia, countries with similarly stringent environmental regulations, the average permitting period is two years.<sup>5</sup> These delays have real world consequences. Unexpected delays alone can reduce a typical mining project's value by more than one-third, and the higher costs and increased risk that can arise from a prolonged permitting process can cut the expected value of a mine in half before production even begins.<sup>6</sup>

Uncertainty around potential EPA action to preemptively or to retroactively veto a project erodes investor and private sector confidence. Without the clear guardrails

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<sup>4</sup> See Coalition Comments filed by the National Mining Association and 15 other national and Alaska-based trade associations, "Notice of extension of public comment period and public hearing comment period, Environmental Protection Agency; Proposed Determination to Prohibit and Restrict the Use of Certain Waters Within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska;" 87 Fed. Reg. 32021; Docket ID No. EPA-R10-OW-2022-0418 (June 30, 2022), available at <https://www.regulations.gov/comment/EPA-R10-OW-2022-0418-0812>.

<sup>5</sup> SNL Metals & Mining, "Permitting, Economic Value, and Mining in the United States," at 9 (June 15, 2015), available at [https://nma.org/wp-content/uploads/2016/09/SNL\\_Permitting\\_Delay\\_Report-Online.pdf](https://nma.org/wp-content/uploads/2016/09/SNL_Permitting_Delay_Report-Online.pdf) (last visited Jan. 31, 2024).

<sup>6</sup> *Id.*

provided in this bill, project proponents and investors alike will look outside the U.S. when determining where to invest and develop projects. This puts our nation's supply chain independence at risk and creates a dangerous situation where we become increasingly import-dependent on necessary materials from adversarial countries.<sup>7</sup>

The bill's clarifications also promote due process and transparency. This bill does not change EPA's existing role in the CWA section 404(c) process. Rather, it simply clarifies that if EPA plans to exercise its veto authority, it must do so during the permitting process – not preemptively before a permit application is filed, and not retroactively after a permit has already been issued. Due process is a cornerstone of our regulatory system. Providing guardrails on this timing ensures that every project proponent, regardless of the type of project, has a fair and unbiased opportunity to go through the permitting process. It also ensures project proponents will be able to rely on the validity of a permit once issued.

The mining industry stands ready to meet the nation's needs and urges your support of these bills that will streamline and provide certainty in the CWA permitting process while protecting our nation's water resources.

Sincerely,



Rich Nolan  
President and Chief Executive Officer  
National Mining Association

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<sup>7</sup> See NMA, Mining Facts 2023, Resources for Supply Chain Security, at 6, (China is the #1 supplier of nonfuel mineral commodities for which the United States was 50 percent + important reliant in 2022; The U.S. imports \$6 billion worth of minerals from foreign countries, despite being home to reserves estimated at \$6.2 trillion; The U.S. is more than 50 percent important reliant on 43 percent of minerals identified as critical to the U.S. and national security; The U.S. imported \$2.5 billion worth of platinum, which is used in 20 percent of all manufactured goods, from Russia in 2021; In 2022, imports made up more than one-half of the U.S. apparent consumption for 51 nonfuel mineral commodities, and the U.S. was 100% net import reliant for 15 of those.), available at <https://nma.org/wp-content/uploads/2022/04/FINAL-NMA-Mining-Facts-2023.pdf> (last visited Jan. 31, 2024).