

NATIONAL STRATEGIC AND CRITICAL MINERALS
PRODUCTION ACT OF 2015

SEPTEMBER 8, 2015.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1937]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1937) to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1937 is to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness.

BACKGROUND AND NEED FOR LEGISLATION

Mineral production is a key economic activity, supplying strategic and critical metals and minerals essential for agriculture, communication, technology, construction, health care, manufacturing, transportation, and the arts. More specifically, strategic metals and

metal alloys are an integral component of aerospace, defense, and other critical infrastructure. Minerals are also necessary to satisfy the basic requirements of an individual's well-being: food, clothing, shelter, and a clean, healthy environment.

Mining of mineral resources creates tangible value, introducing new money into the Nation's economic system. Additional tangible value is added to the raw mined product through manufacturing, construction, and other uses. Harvesting domestic mineral resources contributes to local economies, creates jobs, and benefits our Nation's overall economic security.

According to the National Research Council, one of the primary advantages the United States possesses over its strongest industrial competitors is its domestic resource base. The United States is among the world's largest producer of many important metals and minerals, particularly copper, gold, lead, molybdenum, silver, and zinc, and it still has substantial domestic reserves of these metals. Yet U.S. mineral exploration stagnated or declined during most of the 1990s and 2000s while global mineral exploration trends were strongly positive.

In the early 1990s, the U.S. received 20 percent of the worldwide exploration budget; today it hovers around 7 percent.¹ Without increased domestic exploration, significant declines in U.S. mineral production are unavoidable as present reserves are exhausted.

The lack of exploration expenditures and other factors described below has led to an increased import dependency for non-fuel mineral materials. For example, in 1986 the United States was dependent on foreign sources for 30 non-fuel mineral materials, six of which were entirely imported to meet the Nation's requirements and another 16 of which were imported to meet more than 60 percent of the Nation's needs.

By 2014, the U.S. import dependence for non-fuel mineral materials more than doubled from 30 to 64 commodities; 19 commodities were imported entirely to meet the Nation's requirements; and another 24 commodities required imports of more than 50 percent.²

Factors contributing to the decline in domestic mineral exploration activities and other downward trends in the domestic mining industry during the late 1990s are directly related to the regulatory and administrative changes made during that time period, including revisions to Bureau of Land Management's 3809 Regulations³ and the Department of Interior Solicitor's Millsite Opinion.

Working through the permitting process also became more cumbersome, as federal and state agencies with land management and regulatory responsibilities over mineral exploration and development projects worked at cross purposes to one another. Legal challenges to Records of Decision prepared under NEPA by anti-mining groups also contributed to the delays and uncertainties in obtaining the necessary permits for exploration and development. In fact, the United States averages 7 to 10 years for final permit approval.

Currently the United States lacks a coherent national policy to assure domestic availability of minerals essential for national economic well-being, national security, and global economic competi-

¹ SNL Metals & Mining, World Exploration Trends 2015 Special Report for the PDAC International Convention.

² Ibid (pg. 6).

³ http://www.blm.gov/wo/st/en/prog/planning/nepa/webguide/cfr/43_cfr_3809.html

tiveness. The Nation's dependence on China for rare-earth elements and rare metals, elements necessary for telecommunications, military technologies, health-care technologies, and conventional and renewable energy technologies, is the most prominent example.

Finally, the President has recognized the problems associated with long permitting time frames for infrastructure and renewable energy projects and has issued guidance documents requiring coordination and timely processing of permits to be issued by federal agencies with regulatory responsibilities to be able to begin construction in a timely manner.⁴ This legislation builds on this precedent set by the Administration by applying the principles outlined in the guidance documents to mineral exploration and development projects.

A version of the "National Strategic and Critical Minerals Production Act" passed the House in both the 112th (H.R. 4402, July 12, 2012, 256–160)⁵ and 113th Congress (H.R. 761, September 18, 2013, 246–178, and as part of H.R. 4, the "Jobs for America Act" on September 18, 2014, 253–163).⁶ Changes to H.R. 1937 from the previous versions of the legislation include updated findings and definitions, and revisions to the National Environmental Policy Act (NEPA) equivalence provision to ensure a robust environmental review if this process is determined to be appropriate by the lead agency.

The legislation addresses one major problem facing domestic mining projects—lengthy permitting timelines and delays—an issue raised by witnesses at numerous hearings held in several Congresses. It's also an issue that has been identified in the "Ranking of Countries for Mining Investment," published annually by the Behre Dolbear Group⁷ (mining industry advisors), as the most serious risk to mining projects in the United States.

In the 2012 and 2013 reports, the United States ranked last with Papua New Guinea (out of 25 major mining countries) in permitting delays. In 2014, the U.S. improved in its overall ranking; however, the 7 to 10 year permitting timelines still presented the greatest risk to mining projects in the United States.⁸

There are no changes to the definition of Strategic and Critical Minerals which is written so it applies to the diversity of the Nation's mineral endowment. This is a deliberate policy decision to not pick winners and losers in the domestic mining industry. Critics of the legislation often raise the prospect that the bill, if passed, could apply to 'sand and gravel' operations or other types of mined construction materials as if these mundane everyday mined materials are not critical.

Yet every house, building, or infrastructure project such as a road, highway or bridge is dependent on these materials; society is dependent on these materials. In 2014 the value of these industrial minerals, including sand and gravel was \$46.1 billion whereas the

⁴ <http://www.gpo.gov/fdsys/pkg/FR-2012-03-28/pdf/2012-7636.pdf>

⁵ <https://www.congress.gov/bill/112th-congress/house-bill/4402/actions?q=%7B%22search%22%3A%5B%22%5C%22hr4402%5C%22%22%5D%7D>

⁶ <https://www.congress.gov/bill/113th-congress/house-bill/761/related-bills?q=%7B%22search%22%3A%5B%22%5C%22hr761%5C%22%22%5D%7D>

⁷ <http://www.dolbear.com/>

⁸ <http://www.dolbear.com/news-resources/documents>

value of metal mines production was \$31 billion.⁹ Furthermore the United States Geological Survey (USGS) assessment after the first Great California Shakeout (a drill to practice behavior during a major earthquake and its aftermath) determined that there were not enough sand and gravel deposits in Southern California to meet the reconstruction needs of the region.

COMMITTEE ACTION

H.R. 1937 was introduced on April 22, 2015, by Congressman Mark E. Amodei (R–NV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. It was also referred to the Committee on the Judiciary. On June 25, 2015, the Energy and Mineral Resources Subcommittee held a hearing on the bill. On July 8, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congresswoman Debbie Dingell (D–MI) offered an amendment designated 009; it was not adopted by a bipartisan roll call vote of 11 yeas and 21 nays, as follows:

⁹ <http://minerals.usgs.gov/minerals/pubs/mcs/2015/mcs2015.pdf> (pg. 7).

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 1

Meeting on / Amendment on: Dingell_009 Amendment to H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI	X		
Mr. Young, AK				Mr. Denham, CA			
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam				Mrs. Capps, CA			
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
Mr. Sablan, CNMI				Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluisi, Puerto Rico				Mr. MacArthur, NJ		X	
Mr. Thompson, PA				Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID							
Mrs. Torres, CA	X			TOTALS	11	21	

Congressman Alan S. Lowenthal (D-CA) offered an amendment designated 002; it was not adopted by a bipartisan roll call vote of 13 yeas and 24 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 2

Meeting on / Amendment on: Lowenthal_002 Amendment to H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>	X		
Mr. Young, AK				Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>				<i>Mrs. Capps, CA</i>	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
<i>Mr. Sablan, CNMI</i>	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
<i>Mrs. Tsongas, MA</i>	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
<i>Mr. Peirluisi, Puerto Rico</i>				Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
<i>Mr. Huffman, CA</i>	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>	X			TOTALS	13	24	

Congressman Ruben Gallego (D–AZ) offered an amendment designated 008; it was not adopted by a bipartisan roll call vote of 13 yeas and 23 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 3

Meeting on / Amendment on: Gallego_008 Amendment to H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI	X		
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam				Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
Mr. Sablan, CNMI	X			Mr. Newhouse, WA			
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluisi, Puerto Rico				Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Loventhal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	13	23	

Congressman Matt Cartwright (D-PA) offered an amendment designated 010; it was not adopted by a roll call vote of 14 yeas and 22 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 4

Meeting on / Amendment on: Cartwright_010 Amendment to H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>			
Mr. Young, AK				Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>				<i>Mrs. Capps, CA</i>	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
<i>Mr. Sablan, CNMI</i>	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA				Mr. Zinke, MT		X	
<i>Mrs. Tsongas, MA</i>	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
<i>Mr. Peirluisi, Puerto Rico</i>	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
<i>Mr. Huffman, CA</i>	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>	X			TOTALS	14	22	

Congresswoman Norma J. Torres (D–CA) offered an amendment designated 005; it was not adopted by a roll call vote of 16 yeas and 22 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 5

Meeting on / Amendment on: **Torres_005 Amendment to H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>			
Mr. Young, AK				Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>	X			<i>Mrs. Capps, CA</i>	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
<i>Mr. Sablan, CNMI</i>	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT	X		
<i>Mrs. Tsongas, MA</i>	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
<i>Mr. Peirluisi, Puerto Rico</i>	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
<i>Mr. Huffman, CA</i>	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>	X			TOTALS	16	22	

Congressman Jared Huffman (D-CA) offered an amendment designated 007; it was not adopted by voice vote. On July 9, 2015, the bill was adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 23 to 14, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 6

Meeting on / Amendment on: On favorably reporting H.R. 1937, "National Strategic and Critical Minerals Production Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA			
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>			
Mr. Young, AK				Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX	X			Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>		X		<i>Mrs. Capps, CA</i>		X	
Mr. Lamborn, CO	X			Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>		X	
Mr. Wittman, VA	X			Mr. Graves, LA	X		
<i>Mr. Sablan, CNMI</i>		X		Mr. Newhouse, WA	X		
Mr. Fleming, LA	X			Mr. Zinke, MT	X		
<i>Mrs. Tsongas, MA</i>		X		Mr. Hice, GA	X		
Mr. McClintock, CA				Ms. Radewagen, AS	X		
<i>Mr. Peirluisi, Puerto Rico</i>		X		Mr. MacArthur, NJ	X		
Mr. Thompson, PA	X			Mr. Mooney, WV	X		
<i>Mr. Huffman, CA</i>		X		Mr. Hardy, NV	X		
Mrs. Lummis, WY	X						
<i>Mr. Ruiz, CA</i>		X					
Mr. Benishek, MI	X						
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC	X						
<i>Mr. Cartwright, PA</i>		X					
Mr. Gosar, AZ	X						
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID	X						
<i>Mrs. Torres, CA</i>		X		TOTALS	23	14	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1937—National Strategic and Critical Minerals Production Act of 2015

CBO estimates that implementing H.R. 1937 would have no significant effect on the federal budget. Because enacting the bill could reduce mandatory payments for attorneys' fees over the 2016–2025 period, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be minimal. Enacting the bill would not affect revenues.

H.R. 1937 would require the Bureau of Land Management (BLM) and the Forest Service to take actions aimed at simplifying the process for obtaining permits to extract minerals from federal lands. Based on information from the affected agencies, CBO estimates that those provisions would have no significant budgetary effect because those agencies are already performing most of the activities under current law.

The bill also would direct the agencies to expedite the publishing of notices in the Federal Register related to mineral exploration and mining projects. Based on information provided by BLM, CBO estimates that implementing that provision would cost less than \$300,000 a year, assuming availability of appropriated funds. Those funds would be used to hire additional employees to allow the affected agencies to meet the timelines established in the bill.

Finally, H.R. 1937 would exempt lawsuits that affect mineral exploration or mining permits on federal lands from the Equal Access to Justice Act. That act requires the U.S. Treasury to pay attorneys' fees and other legal costs for certain plaintiffs who prevail in court proceedings against the federal government. Over the 2005–2015 period, total payments made on behalf of BLM, the Forest Service, and the Office of Surface Mining Reclamation and Enforcement from the Judgment Fund of the U.S. Treasury to cover attorneys' fees under that act averaged about \$600,000 a year. Based on information from the Government Accountability Office, the Treasury Department, and the affected land management agencies, CBO estimates that only a small portion of that amount was paid to

plaintiffs who prevailed in cases related to mineral exploration or mining permits. Thus, we estimate that enacting H.R. 1937 would reduce direct spending by less than \$50,000 a year over the 2016–2025 period.

H.R. 1937 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Jeff LaFave and Ben Christopher. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, implementing the bill “would have no significant effect on the federal budget.”

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

BOB GOODLATTE, Virginia
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Congress of the United States House of Representatives

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July 28, 2015

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bishop,

I am writing with respect to H.R. 1937, the "National Strategic and Critical Minerals Production Act of 2015," which the Committee on Natural Resources recently ordered reported favorably. As a result of your having consulted with us on provisions in H.R. 1937 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I agree to discharge our Committee from further consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 1937 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during Floor consideration of H.R. 1937.

Sincerely,

Bob Goodlatte
Chairman

cc: The Honorable John Conyers, Jr.
The Honorable Raul Grijalva
The Honorable John Boehner
Mr. Thomas J. Wickham, Jr.

ROB BISHOP OF UTAH
CHAIRMAN

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

28 July 2015

The Honorable Robert Goodlatte
Chairman
Committee on the Judiciary
2138 Rayburn HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 9, 2015, the Committee on Natural Resources ordered favorably report H.R. 1937, National Strategic and Critical Minerals Production Act of 2015. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on the Judiciary.

I ask that you allow the Committee on the Judiciary to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support having the Committee on the Judiciary represented on the conference committee. Finally, I would be pleased to include this letter and your response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record when the bill is considered by the House. Thank you for your consideration of my request, and for your continued strong cooperation between our committees.

Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable John Boehner, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian

DISSENTING VIEWS

We oppose H.R. 1937 because, despite its title, this legislation has nothing to do with the development of actual critical or strategic minerals. This Republican bill is nothing more than another giveaway to the mining industry that speeds royalty-free access to taxpayer resources at the expense of key protections for local communities and the environment.

The bill ignores well-established scientific definitions for critical minerals, and instead uses a definition so broad that it encompasses virtually all hardrock resources. The bill would grant giveaways to mining companies for common minerals such as gold, silver, copper and uranium; even mines for minerals that are not remotely critical such as sand or gravel could enjoy the open access to public lands granted by this bill.

Under this sweeping definition, H.R. 1937 would eliminate proper review under the National Environmental Policy Act (NEPA) for nearly all hardrock minerals, dramatically shifting how these mines are permitted on public lands. Further, the bill would elevate mining above all other uses of our public lands, threatening hunting, fishing, grazing and conservation.

In opposition to an identical bill last Congress, the Department of the Interior stated, "This legislation would remove many of the environmental safeguards for almost all types of hardrock mines on public lands, bypass evaluation of potential impacts under NEPA, and limit public involvement in agency decision-making." The administration also strongly opposed this bill when it was introduced in the 112th Congress.

In addition, the Majority's claims of mining permit delays that prompted this bill are unfounded. This bill would prevent proper environmental review for the small number of mines that could pose a significant danger to public health, water, or the environment, and where additional review is therefore warranted. Last year, the average time it took to approve a plan of operations for a hardrock mine was 17 months, and since 2008, the approval time has actually decreased. As of last year, the Obama Administration had approved 69 percent of hardrock mines within three years.

Not only does the bill's attempt to limit NEPA review threaten proper environmental considerations, it also endangers public input. The NEPA process is designed to enhance transparency of government decisions and includes established periods for public comment; without NEPA robust and meaningful public participation cannot be ensured. The bill further attacks public review by exempting legal cases brought against hardrock mines from the Equal Access to Justice Act, which enables all members of the public, regardless of their financial situation, to use the courts to hold the government accountable.

The Majority rejected several amendments offered by Democrats to fix the worst provisions in the bill, including an amendment offered by Energy and Mineral Resources Subcommittee Ranking Member Lowenthal that would have limited the provisions in the bill to only minerals that are actually deemed critical and strategic by the scientific community. Other amendments rejected by the Majority would have reinstated the NEPA process, removed the exemption for hardrock mines under the Equal Access to Justice Act, or exempted sacred Native American sites from the NEPA waiver in the bill.

Instead of updating the Mining Law of 1872 by considering comprehensive bills such as the Hardrock Mining Reform and Reclamation Act cosponsored by several members of the committee, the Majority continues to push nonsensical, environmentally destructive bills that do little to improve the woefully outdated hardrock mining system in the United States. Democrats believe that we should be ensuring that mining companies are not able to extract valuable public minerals without paying any royalties to the American people, and that we should be assisting local communities throughout the country to reclaim hundreds of thousands of unsafe or toxic abandoned mine sites. Unfortunately, this Republican legislation does nothing to close these egregious loopholes that large, multinational mining companies enjoy when mining on our public lands, and instead provides even more giveaways and handouts to this industry.

RAÚL M. GRIJALVA.
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