

The Honorable John McCain
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Thornberry and McCain and Ranking Members Smith and Reed:

On behalf of our millions of members and supporters, we urge you to oppose House Amendment 647, offered by Rep. Amodei to H.R. 5515, the National Defense Authorization Act for Fiscal Year 2019 (NDAA)¹ when the NDAA is considered by the conference committee. This amendment defines “critical minerals” so broadly that it would include materials like sand and gravel. This rider is political in nature, unrelated to national security, and will make passing a final NDAA more challenging as it would severely weaken the environmental review process and public input for mining proposals. Please uphold the NDAA tradition of rejecting poison pill, unrelated amendments like this one and protect our air, land, water, and wildlife.

A Weakening of Environmental Review and Public Participation Will Harm Communities

The National Environmental Policy Act (NEPA) and other environmental reviews are essential to ensure communities are able to weigh in on decisions that affect their public lands, drinking watersheds, and wildlife. This amendment seeks to limit or even entirely prevent federal agencies from taking a hard look at mining proposal impacts by allowing state and local governments to replace NEPA with their own review process. Mining companies would be allowed to limit the information about the project’s harms during the public process. The amendment would also allow mining and road building in roadless forests, undermining the 2001 Roadless Area Conservation Rule that protects vital wildlife habitat and clean water for millions of Americans.

The Buckhorn Mine in north-central Washington was proposed as an open-pit cyanide-leach gold mine. Because the community could engage in the federal agency analysis process, the eventual mine became a less damaging underground mine, reducing the overall impact of the project to the land, water, and wildlife.² Even with these modifications, this mine has still contaminated the local watershed with lead and other heavy metals. It is both a case study in the

¹ H.Amdt. 647 now appears as Division E—National Strategic and Critical Minerals Production in H.R. 5515 - National Defense Authorization Act for Fiscal Year 2019 (Engrossed in House on 05/24/2018).

² Truce clears way for Buckhorn Mountain gold mine. The Seattle Times, Warren Cornwall (Apr. 18, 2008) available at <https://www.seattletimes.com/seattle-news/truce-clears-way-for-buckhorn-mountain-gold-mine/>; Water Quality not improving at the Buckhorn Mine, Okanogan Highlands Alliance available at <http://www.okanoganhighlands.org/mine-monitoring/mine-seepage>.

role the public can play in reducing harms as well as a prime example of why *we desperately need mining reform that results in stronger and better protections.*

The Canyon Mine, an existing uranium mine just outside the Grand Canyon, flooded last year resulting in levels of uranium in containment ponds exceeding the EPA limit for safe drinking water by 433%.³ To prevent the pond from overflowing, the company sprayed this uranium contaminated water into the air and on to adjacent Forest Service land. Wildlife is also drinking, bathing, and foraging in this pond. This example demonstrates that analysis of direct, indirect, and cumulative impacts and mitigation is already insufficient and leaves communities and wildlife in harm's way. *Protecting the health of Americans and their public lands requires that Congress strengthen, not weaken mining laws and regulations.*

Mining Has Left a Toxic Legacy and Does Not Need to Be Fast-Tracked

A recent study found that 74% of gold mining operations pollute surrounding surface or groundwater, despite the environmental review under NEPA.⁴ The EPA estimates that hardrock mining has polluted more than 40% of headwaters in western watersheds.⁵ This amendment threatens our water resources and limits the ability of mining-impacted communities to protect their land, water, and health by shortening the permitting process and eliminating meaningful environmental review.

According to the Government Accountability Office (GAO), the average time it takes the Bureau of Land Management (BLM) to permit a mine is just two years.⁶ This period is competitive with robust mining industries like Australia, Canada, Chile, and Norway. When a permit takes longer, the reason is often the low quality of information operators provided in their mine plans, the agencies' limited resources, or changes in market conditions. NEPA is a source of strength and predictability that helps lay the foundation for a mining company's social license to operate, giving domestic mining a competitive advantage.

The mining industry already benefits from minimal regulatory oversight. The Mining Law of 1872 imposes almost no obligations on the mining industry—no environmental or reclamation standards. The mining industry is also exempt from key provisions of the Clean Water Act and Resource Conservation and Recovery Act. NEPA is one of the only protections against unrestricted mining of our public lands.

Conclusion

If Rep. Amodei's House Amendment 647 becomes law as part of the NDAA, it will put the mining industry first, disenfranchising the public and increasing pollution on our public lands. We urge you to oppose this amendment by ensuring it does not move forward with the NDAA, as well as any other amendments that undermine protections for our land, air, water, and wildlife.

³ Water Has Built Up in Uranium Mine Near Grand Canyon. Now What? USA Today Network, Ron Dungan, The Arizona Republic (Apr. 4, 2017); <https://www.usnews.com/news/best-states/arizona/articles/2017-04-04/water-accumulates-at-uranium-mine-near-grand-canyon>.

⁴ U.S. Gold Mines Spills & Failures Report. Earthworks and Great Basin Resource Watch. July 2017. Available at https://earthworks.org/publications/us_gold_mines_spills_failures/.

⁵ Liquid Assets 2000, America's Water Resources at a Turning Point at 10. EPA. 2000.

⁶ GAO, *Hardrock Mining: BLM and Forest Service Have Taken Some Actions to Expedite the Mine Plan Review Process but Could Do More*, GAO-16-165 at 13 (Jan. 2016) (GAO Mine Plan Review Study).

Sincerely,