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HR 4402: Threatening Water Resources, Disenfranchising Communities

Masquerading as a bill about “strategic and critical minerals,” HR 4402 takes the nation’s top toxic polluter, the hardrock mining industry, and strips away key protections for public health, water and communities.

The current law that governs hardrock mining on public lands already allows for open access to mineral resources – for free. Under the 1872 Mining Law, gold, copper, silver and uranium are mined by multinational corporations without any return to the owner of the mineral, the taxpayer. Mining is also considered the “highest and best use” of public lands. As such, federal land managers cannot, and do not, deny mine proposals. In addition to the inadequacies of this antiquated law, the mining industry is also exempt from key provisions of some of our most important environmental laws, like the Clean Water Act.

HR 4402 makes the current environmental threats posed by hardrock mining worse. By truncating the permitting process and effectively eliminating meaningful environmental review, this legislation threatens water resources across the United States and limits the ability of mining-impacted communities to protect their land, water and health.

Mining at Any Cost

This bill allows federal agencies to exempt mining projects from review under the National Environmental Policy Act of 1969 (NEPA). NEPA makes sure that in addition to government and industry input, everyday citizens can take part in the development and oversight of projects that affect our social, economic, and environmental health.

This legislation would run roughshod over the values of transparency and public participation that are at the heart of NEPA, the process that has allowed us to find out one of the most disturbing statistics about the nature of hardrock mines: 75% of them end up polluting surrounding surface or groundwater, in spite of this environmental review.

HR 4402 caps the length of the permit process to just 30 months and allows regulators to exempt mining projects from the Equal Access to Justice Act (EAJA) as well. EAJA is legislation that makes nonprofit environmental law firms possible, which allows average Americans to protect their communities and families from pollution. Impacted communities often cannot afford lawyers, much less the litany of scientific and technical experts needed to mount a serious challenge to a multinational mining company.

A Better Way

Disenfranchising rural communities and polluting western waters is not a solution. In addition to research on recycling and alternative, sustainable sources for metals, 1872 Mining Law reform is needed to protect some of our most precious resources. HR 4402 takes us in the wrong direction. The hardrock mining industry should be clamoring to lead the world in better mining practices, not catering to the lowest common denominator.