

OUTDOOR ALLIANCE

August 30, 2022

Secretary Deb Haaland
Department of the Interior
1849 C St. NW
Washington, DC 20240

Submitted via regulations.gov

Re: Request for Information to Inform Interagency Working Group on Mining Regulations, Laws, and Permitting

Dear Secretary Haaland and members of the Interagency Working Group,

On behalf of the outdoor recreation community, we write to provide information to inform the Interagency Working Group on Mining Regulations, Laws, and Permitting. Improving federal mining policy and accelerating our society's transition toward renewable energy are both critically important priorities for the outdoor recreation community, and we are hopeful that the IWG will accelerate equitable, science-based actions by both the Biden Administration and Congress to address these priorities. While we strongly support a comprehensive approach to addressing the impacts of mining on communities, Indigenous peoples, and ecosystems, our comments are primarily focused on actions and policies that most directly affect human-powered outdoor recreation, public lands, and the \$679 billion outdoor economy.

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.



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Impacts of Hardrock Mining on Outdoor Recreation

The outdoor recreation community is profoundly affected by hardrock mining, both through mining proposals that threaten valuable recreation lands, as well as through the ongoing impacts of legacy mining pollution. These impacts stem in large part from the outdated 1872 Mining Law, a relic of the era of westward expansion that still governs hardrock mining on federal public lands in the west today. However, our concerns also extend to public lands in the east and Midwest not governed by the 1872 law, and to ongoing funding and capacity issues related to hardrock mine remediation.

Proposals for new hardrock mines have the potential to irreversibly degrade outdoor recreation sites like rivers, trails, and crags, as well as important cultural sites and conservation lands. In many cases, we consider these areas irreplaceable. Because the impacts from mining are often permanent, vetting new mining proposals is something that Outdoor Alliance and our member organizations take seriously. The 1872 Mining Law, which predates the modern environmental movement and modern forms of outdoor recreation, does not provide adequate safeguards for sensitive environmental resources that are important to our community and creates an enormous level of uncertainty with regard to future mining threats to recreation lands.

Outdoor Alliance and our member organizations are actively involved in multiple campaigns to protect high-value recreation landscapes from mining proposals. The examples below outline three of these campaigns, all of which focus on proposals that would degrade or destroy popular recreation sites. The reforms proposed by the IWG should ensure that the recreation, conservation, and cultural values of affected landscapes are better considered in similar projects in the future.

South Fork Salmon River, Idaho. The S. Fork Salmon is one the finest big water multi-day whitewater trips in the lower 48, drawing paddlers during spring high water from around the West and around the world. The Stibnite Gold Project, proposed by the company Perpetua (formerly Midas Gold), threatens to disturb more than three square miles of the Payette National Forest in the East Fork of the South Fork of the Salmon River Watershed and would divert a portion of the river into a tunnel. If implemented, this project would degrade water quality, threatening habitat for



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federally protected Chinook Salmon, Steelhead Trout, and Bull Trout, while also permanently damaging the territory of the Nez Perce Tribe.

Oak Flat, Arizona. Oak Flat is a Western Apache sacred site and popular rock climbing area east of Phoenix, Arizona that is threatened by a proposal for copper mining. A rider to the 2015 National Defense Authorization Act mandated that the USDA Forest Service pursue a land exchange with the foreign-owned company Resolution Copper (RCM), which would grant outright ownership of Oak Flat to RCM. As part of the land exchange, RCM proposes mining activities that would permanently destroy the Oak Flat climbing area as well as irreplaceable Apache sacred sites. In early 2016, the National Park Service added Oak Flat to the National Register of Historic Places due to its high cultural value for the Western Apache. The Forest Service withdrew its Environmental Impact Statement and Draft Record of Decision in 2021, temporarily halting the land exchange, but the ongoing threat to Oak Flat from copper mining remains a threat to outdoor recreation and cultural resources in the area.

Boundary Waters Canoe Area Wilderness, Minnesota. The Boundary Waters Canoe Area Wilderness, known for its paddling, hiking, and fishing, is the most visited Wilderness area in the country. A proposal to conduct sulfide-ore copper mining directly outside of the Wilderness boundary threatens to leach heavy metals and other toxins into the surrounding water, which would cause significant water pollution in a Wilderness area renowned for its clean water. The Forest Service took steps to protect the Boundary Waters in 2022 by releasing a draft environmental analysis that recommends a 20-year mineral withdrawal for the area (the maximum amount of time legally allowable). However, additional administrative actions are needed to finalize the withdrawal, and permanent protections are needed to protect the Boundary Waters and local recreation economies.

The outdoor recreation community is also highly affected by legacy mining pollution, which poses an ongoing hazard for water-based recreation in many popular recreation areas. A 2020 U.S. Government Accountability Office study estimates that at least 140,000 abandoned hardrock mine features exist across federal public lands. Of these, around 67,000 pose physical hazards to people, and 22,500 pose environmental hazards that threaten public health, wildlife, and



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aquatic ecosystems.¹ Together, these abandoned mines create a substantial environmental hazard and represent an enormous fiscal burden for federal agencies.

It is critical that remediation and cleanup efforts be fully supported in order to address the ongoing impacts of legacy mine pollution for both people and ecosystems. We have provided two examples below that are emblematic of issues faced in mining-affected areas across the country. As participation in outdoor recreation in these areas and others continues to grow, the public health threat posed by legacy mine pollution becomes more unacceptable.

Animas River Watershed, Colorado. Multiple sections of the Animas River in SW Colorado provide world class water-based recreation, ranging from remote Wilderness whitewater kayaking along the Upper Animas, to frontcountry boating, swimming, and wildlife viewing within the City of Durango. The upper Animas watershed was heavily degraded by mining throughout the 19th and 20th centuries, which left a significant number of abandoned mines throughout the watershed. These impacts gained national attention in 2015 due to the Gold King mine spill, where three million gallons of toxic wastewater from an abandoned gold mine spilled into the river. The Gold King disaster, along with regular ongoing impacts to water quality from mining pollution, cause an ongoing public health hazard, which in turn creates economic challenges for recreation and tourism-based businesses in the towns of Durango and Silverton.

South Yuba River Watershed, California. Located in the heart of California's gold country, the South Yuba River is among the watersheds most affected by unregulated mining activity during the California gold rush. In modern times, the river is an extremely popular destination for swimmers, hikers, and whitewater boaters, who collectively help support vibrant recreation and tourism economies in neighboring communities like Grass Valley and Nevada City. Abandoned mine lands throughout the watershed, including lands affected by hydraulic mining, pose an ongoing hazard to recreationists through both physical hazards like mine openings, and chemical hazards like acid mine drainage.

¹ Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors that Limit Efforts to Address Hazards. United States Government Accountability Office. March 2020. Report to the Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, U.S. Senate, <https://www.gao.gov/products/gao-20-238>.



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Reforming Mining Policy to Address Impacts to Outdoor Recreation

Reforms to modernize mining policy, alongside significant investments in mine remediation, are needed to address the ongoing impacts of hardrock mining on outdoor recreation, ecosystems, cultural resources, and local communities.

Outdoor Alliance has been encouraged to see momentum build to address mining reform both within the 117th Congress and through the IWG. We strongly support the Biden administration's Fundamental Principles for Domestic Mining Reform released in February 2022. We have provided notes on a subset of these principles below which have particular resonance for the outdoor recreation community:

#1 Establish Strong Responsible Mining Standards: While we recognize that additional hardrock mining will likely be needed to support clean energy, it is imperative that new hardrock mines be designed, permitted, and reclaimed with adequate environmental and public health standards. In addition to the standards outlined by the administration, we recommend that the IWG incorporate additional standards to minimize the impact of mines on outdoor recreation resources, including waterways, trails, beaches, and climbing areas, as well as the viewsheds from important recreation sites.

#5 Establish a Fully Funded Hardrock Mine Reclamation Program: As mentioned above, addressing legacy mining pollution is a priority for the outdoor recreation community. Through Section 40704 of the 2021 Infrastructure Investment and Jobs Act, Congress for the first time authorized a program dedicated to hardrock mine reclamation, but did not allocate funding to the program. The administration should request—and Congress should appropriate—the full authorized amount of \$3 billion for this important program so that federal agencies and partners can begin to address legacy mining pollution on federal public lands. We also support efforts by the IWG to locate funding sources for this program outside of taxpayer dollars. For example, funds generated from potential royalties, rents, and fees paid by the mining industry under a modernized hardrock mine leasing system would be an appropriate source for hardrock mine remediation funds.

#6 Conduct Comprehensive Planning: Outdoor Alliance and our member organizations are highly familiar with the land management planning processes at both USFS and BLM. These processes provide invaluable opportunities for



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stakeholders in our community to ensure that management actions on public lands adequately consider and protect recreational resources. Incorporating hardrock mining into land management planning would ensure that the agencies have an opportunity to consider mining opportunities alongside other multiple use values, which will in turn ensure that mining actions fit into a public-facing, collaboratively developed comprehensive plan for each National Forest or BLM unit. In many cases, this will reduce controversy when mining projects are proposed and will provide stakeholders and Tribes a needed opportunity to weigh in on where mining activities are most appropriate.

#8 Protect Special Places: One of the outdoor recreation community's top-level concerns regarding hardrock mining is that mining projects will irreversibly damage the lands and waters that we value for recreation. Certain areas of public lands should be considered unavailable to mining due to their outstanding conservation, recreation, cultural, or other values. New mining projects should not be approved if they would impair water resources, scenic values, wildlife habitat, or other important conservation resources in protected landscapes. We also recommend that the following areas be protected from mining projects:

- Inventoried Roadless Areas
- National Recreation Areas
- Eligible Wild & Scenic Rivers
- Native American Sacred Sites
- Wilderness Study Areas
- Units of the National Landscape Conservation System
- Designated critical habitat
- Areas of critical environmental concern
- Areas included in the National Register of Historic Places

#9 Solicit Community Input and Conduct Tribal Consultation: Tribes deserve consistent, early opportunities to consult with federal agencies about mining before permitting decisions are made. Consultation requirements should be standardized across federal agencies in order to allow Tribes their proper role of determining the mix of development and conservation priorities appropriate for their communities.

In addition to the principles already outlined by the Biden Administration, we also recommend that the IWG explore additional actions that would address the direct



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impacts of mining on outdoor recreation. These actions will better ensure that recreation resources are considered as the agencies evaluate new mining proposals:

Make agencies' authority to deny projects explicit: In many cases, agencies interpret the 1872 Mining Law and their accompanying regulations as preventing them from denying permits for new mines based on predicted impacts to ecosystems, cultural resources, recreation, and more. This interpretation is apparent in the Resolution Copper Project (Oak Flat) example mentioned above, where in 2016 the Forest Service claimed that its regulations implementing the 1872 Mining Law prohibited it from choosing the “no action” alternative.² The IWG should explore how to give the Forest Service and BLM more explicit authority to deny hardrock mining permits when the environmental or social impacts of a proposed project are found to be unacceptable.

Establish a permitting and leasing system for hardrock mining: The chaotic mining claim system established by the 1872 Mining Law unfairly gives mining interests priority access to public lands without consideration of recreation resources, conservation values, or other public lands values. Replacing this system with a permitting and leasing system similar to the existing system for oil and gas development would provide for better transparency in mining decisions and would allow stakeholders like the outdoor recreation community needed opportunities for public input on mining proposals.

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Thank you for the opportunity to comment on this important initiative. We look forward to working with the IWG to modernize America’s mining policy to better support outdoor recreation and conservation on public lands.

² U.S. Forest Service. 2016. *Notice of intent to prepare an Environmental Impact Statement for approval of a plan of operations for the Resolution Copper Project and associated land exchange; request for comments; and notice of public scoping.* Available at <https://www.resolutionmineeis.us/sites/default/files/project-files/federal-register-noi-20160318.pdf>.



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Best regards,



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Policy Director
Outdoor Alliance

cc: Adam Cramer, Chief Executive Officer, Outdoor Alliance
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