

Reform to The General Mining Law of 1872

Background:

The General Mining Act of 1872 still governs current-day critical mineral extraction activities. The provisions of the Act are outdated and fail to adequately address historic issues within the critical mineral industry, such as standardized tribal consultation practices and protections for sacred sites. Growth predictions for the domestic critical mineral extraction market in the coming decades indicate an increasing demand for materials to be sourced and processed within the United States. The laws governing critical mineral extractions must reflect the priorities of the Tribal Nations they impact. Approximately 97% of nickel, 79% of lithium, 68% of cobalt, and 89% of copper deposits in the United States are located within 35 miles of Indian reservations.¹ As the critical mineral mining industry grows in response to the need for sustainable energy technologies, steps must be taken to preserve and strengthen Tribal Nations' land and natural resources priorities, as well as their right to self-determination.

Key Reform Priorities

Tribal Nations have long advocated for incorporation of, and deference to, Indigenous knowledge in the federal government's decision-making processes regarding permitting for mining activities. Mining activities conducted on or near tribal lands can have direct impacts on tribal communities, tribal sacred or cultural sites, the environment, and other natural resources. As such, federal policies governing these activities require significant reform. Tribal leaders, in the past, have advocated for the following reforms to The General Mining Act of 1872:

1. A standardized and improved tribal consultation process that includes establishing standards for education on tribal mining issues and succinct regulations that govern the quality of individual tribal consultations. Tribal leaders have also expressed that the tribal consultation process should begin as early on in the permitting process as possible, and that more tribal historic preservation officers are needed to assist in the consultation process.
2. The need to allocate resources facilitating broader opportunities for Tribal Nations to participate as a "cooperating agency" in the production of environmental impact statements and assessments. Tribal leaders have expressed the need for funding in order to develop internal capacities to participate as cooperating agencies.

General Mining Act of 1872 Reform Updates

1. The Interagency Working Group on Mining Reform at The Department of Interior White House Tribal Nations Summit 2022 Updates:
 - a. Updated attendees of forthcoming report; and
 - b. Mentioned upcoming consultations seeking tribal leader input on U.S. Federal Permitting Committee issues.
2. The Federal Permitting Improvement Steering Council hosted tribal consultations on funding transfers to Tribal Nations for FAST-41 Projects.
3. NCAI passed two resolutions at the 2022 Annual Convention in support of General Mining Act reform efforts:
 - a. [Resolution #ANC-22-013](#) *Supporting the Continued Protection of Northern Paiute and Shoshone Traditional Homelands from the Permitted Thacker Pass Lithium Mine in Northern Nevada*; and
 - b. [Resolution #SAC-22-014](#) *Support for Mining Reform to Protect Sacred Sites*.

¹ Block, Samuel. "Mining Energy-Transition Metals: National Aims, Local Conflicts." MSCI. ESG Research, June 3, 2021. Available at:

<https://www.msci.com/www/blog-posts/mining-energy-transition-metals/02531033947>