Congress of the United States

Washington, DC 20515

December 21, 2023

Eric Beightel
Executive Director
Federal Permitting Improvement Steering Council
1800 M St. NW, Suite 6006,
Washington, DC 20036

Dear Executive Director Beightel:

As the Co-Chairs of the bipartisan House Climate Solutions Caucus, we write in support of the Federal Permitting Improvement Steering Council's FAST-41 federal permitting coordination process and its ongoing effort to expand the covered scope of the mining sector to include beneficiation, processing, and recycling activities essential to safeguarding the critical mineral supply chain. However, we remain concerned regarding the Council's reduction of allowable minerals eligible for access to the permitting program and urge the Permitting Council to broaden its definition of "covered projects" and specifically consider including copper and copper-related projects in the proposed rule change (Docket Number: 2023-001). Due to the importance and its rising demand in the U.S. clean energy economy, we believe including copper in the proposed rule change will proactively safeguard the copper supply chain while providing an opportunity to recover auxiliary critical minerals from established mining sites, which is critical to U.S. energy and security infrastructure.

Meeting the U.S. 2050 goal of achieving net-zero emissions will require largescale investments in clean energy technologies which, in turn, are anticipated to continue increasing demand for critical minerals. Furthermore, successful integration of clean energy projects to the electrical grid will require grid modernization and transmission expansion which will necessitate additional critical minerals and materials supplies. According to the International Energy Agency, meeting United Nations' Paris Agreement goals of limiting warming to 1.5°C is expected to result in an increase in critical mineral demands of over 40% for copper and rare earth elements, 60-70% for nickel and cobalt, and almost 90% for lithium over the next two decades.[1]

The rise in critical mineral demand along with the economic and national security implications of U.S. reliance on other countries to satisfy them underscores the importance of onshoring the U.S. critical mineral supply chain. As such, we recognize the FAST Act's role in coordinating Federal agencies to improve the timeliness, efficiency, predictability, and transparency of permitting processes involved in crucial U.S. infrastructure projects. As highlighted in the Permitting Council's 2021 decision to qualify the mining sector as eligible for coverage under Title 41 of the FAST Act, mining projects require significant construction, investment, Federal and state environmental reviews and authorizations, and community engagement. While it is necessary to fulfill U.S. labor and environmental standards, these approvals and authorizations result in mining sector projects that take significant time to be approved and safely brought online. The Permitting Council's 2020 Annual Report to Congress cited that permitting approval processes can take upwards of five years.[2] For mining projects, this timeline extends to seven to ten years.[3] These timelines, in their current form, are at odds with the National Climate Task Force's goals of reducing greenhouse gas emissions 50-52%, reaching 100% carbon pollution-free electricity by 2030, and achieving a net-zero emissions economy by 2050.

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[1] Executive summary – The Role of Critical Minerals in Clean Energy Transitions – Analysis - IEA
[2] FY 2020 FPISC Annual Report to Congress.pdf (performance.gov)
[3] SNL_Permitting_Delay_Report-Online.pdf (mineralsmakelife.org)

As addressed by the Permitting Council's proposed rule, onshoring the U.S. critical mineral supply chain will necessitate intentional and expeditious mineral procurement, beneficiation, processing, and recycling. We believe that designating these additional activities as eligible for FAST-41 consideration correctly prioritizes a holistic approach to safeguarding the U.S. economy and national security while moving forward with the clean energy transition.

While we commend this aspect of the Permitting Council's proposed rule, we are concerned regarding the narrowing of the definition of "covered projects" which would exclude several minerals designated by the Department of Energy and the Department of Defense as essential for energy, economic, and national security, such as copper and copper-related projects. Currently, the Permitting Council plans to follow the critical minerals definition as designated by section 7002 of the Energy Act of 2020 and listed by the Director of the U.S. Geological Survey (USGS) at 87 FR 10381 of 2022. Under these definitions of critical minerals, copper is not included and associated mining, beneficiation, processing, and recycling projects would not be eligible for FAST-41 consideration. Further, projects involving non-critical minerals that support our national security, energy, and infrastructure needs would not qualify as "covered projects" under the proposed rule.

Copper is particularly important to achieving U.S. renewable energy, economic, and national security goals and its demand across our economy is rising. Notably, copper is an essential material for EVs, wind and solar energy, grid modernization, and transmission expansion. The Department of Energy's 2023 National Transmission Needs Study cites that overall regional transmission needs are expected to increase 64% by 2035 to meet moderate levels of increased loads on the grid along with clean energy growth driven by existing state and federal legislation.[4] From a national security perspective, grid stability and transmission expansion are crucial to ensuring continuous defense operations in the wake of extreme weather or adversarial attack. Currently, Chile and Peru produce about 40% of the world's copper. However, political and economic instability show that our reliance, even on our allies, is not guaranteed.

In addition, copper is often co-located with other critical minerals such as antimony, bismuth, gallium, germanium, indium, nickel, tin, titanium, tellurium, and tungsten, which are all listed on the USGS 2022 Critical Minerals List and needed in manufacturing clean energy infrastructure.[5] By including copper mining and adjacent activities under FAST-41's mining sector eligibility, proposed projects can reap the benefits of mineral co-location while making use of the robust U.S. mining and refining capacity that already exists. This could include remediation and recovery activities at U.S. legacy mining sites, coupling environmental redress with local procurement and processing of critical minerals. The U.S. could benefit from FAST-41 consideration to expeditiously increase its processing and recycling potential for imports of refined copper, thereby strengthening our domestic critical mineral supply chain from a nearshoring perspective.

For these reasons, we urge the Permitting Council to broaden its definition of "covered projects" and specifically to further evaluate the value of and potential for including copper in its proposed rule. As leaders of the bipartisan Climate Solutions Caucus, we appreciate your consideration and work to safeguard U.S. energy and national security and meet our clean energy goals.

Sincerely,

[4] National Transmission Needs Study (energy.gov)
[5] U.S. Geological Survey Releases 2022 List of Critical Minerals | U.S. Geological Survey (usgs.gov)

Chrissy Houlahan
Member of Congress

Andrew R. Garbarino
Member of Congress