

Testimony of Chris Wood
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United States Senate Committee on Energy and Natural Resources
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Chairman Lee, Ranking Member Heinrich and Committee Members:

My name is Chris Wood. I am the President and CEO of Trout Unlimited (TU). Thank you for inviting me to testify before the Committee. Today I am providing testimony on the *Mining Regulatory Clarity Act* (S.544); the *Critical Materials Future Act of 2025* (S.596); the *Critical Minerals Security Act of 2025* (S.789); and the *Mining Waste, Fraud, and Abuse Prevention Act of 2025* (S.859).

TU's mission is to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon. In pursuit of this mission, TU has long been involved in mining issues, from advancing policies to foster responsible mining to protecting special places such as Bristol Bay in Alaska to working with the mining industry and other partners to clean up legacy pollution from abandoned mine lands (AML).

Domestic mineral production helped to build our nation, won two world wars, fueled westward expansion, and provides the raw materials for modern society. Domestic mining of critical minerals is crucial to strengthen national defense, necessary across numerous economic sectors, and integral to our country's evolving energy portfolio. At the same time, mining that often occurred before the era of modern environmental laws left hundreds of thousands of abandoned mines that dot the landscape, many of which pollute our waterways and communities in a nasty brew of lead, zinc, cadmium, arsenic, and other toxins.

How we proceed from this point forward to meet our Nation's demand for critical minerals is one of the most important policy questions before Congress and we thank the Committee for its focus on these important issues. There is no constituency for acid mine waste and orange rivers. They do not have a lobby shop working for them here in the nation's capital. There is, however, a bipartisan commitment to clean up abandoned mines, encourage responsible mining, and propel the needs of a clean energy future, while making our rivers, streams, and communities cleaner.

Working together, we have an opportunity to craft a path forward that is collaborative, innovative and responsible. Trout Unlimited stands ready to help the bill sponsors and Congress achieve these objectives and I offer the following testimony on behalf of TU and its more than 350,000 members and supporters nationwide.

Historic mining left widespread pollution that must be addressed

In 1872, the General Mining Law was a progressive law designed to help spur settlement of the West. Anyone with a claim was able to mine with little oversight – polluting waterways, stripping mountainsides and changing the landscape of the West with little regard to, nor knowledge of, health, safety or environmental impacts. The impacts of those legacy mines pollute our lands and waters today. In fact, the EPA has estimated that 40 percent of western headwater streams are deleteriously affected by abandoned hard rock mines. To be certain, improvements in environmental regulations have helped stem many of the worst effects of mining, but reforms remain important for funding abandoned mine

clean up and the protection of the most sensitive fish and wildlife habitats, sacred sites, and drinking water supplies.

A 2020 Government Accountability Office report¹ estimates there are at least 533,000 abandoned hardrock mines on lands within Forest Service, Bureau of Land Management, Park Service, and Environmental Protection Agency (EPA) jurisdictions. On average, these agencies have collectively spent approximately \$287 million annually identifying, cleaning up, and monitoring abandoned hardrock mines—adding up to approximately \$2.9 billion in spending between 2008 and 2017.

An analysis conducted by TU scientists found that approximately 110,000 miles of streams – enough to circle the Earth four times – are listed as impaired for heavy metals or acidity, and abandoned mines are a major source of these impairments. Of these impaired stream miles, 20 percent are in areas that contain native trout and salmon while 52 percent are in areas that are important drinking water sources.

The path forward starts and ends with collaboration

We can do better. Last year Congress took a historic step in the right direction when it passed the *Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024* (S. 2781/H.R.779). Led by Senators Martin Heinrich and James Risch in the Senate, this new law is proof positive that the mining industry and conservation interests can not only find common ground on mining issues, but that we can come together to build bipartisan coalitions and advance important policies.

Over 75 House and Senate cosponsors worked together to pass this legislation – including an overwhelming majority of members on this committee – showing that there can be a path forward on mining policy that is grounded in trust and compromise. I want to personally thank Senators Heinrich and Risch for their determined leadership passing Good Samaritan legislation and showing us all what is possible when we apply common sense to common problems for the common good.

In 2004, I established TU's abandoned mine reclamation program. Over the years, we have completed over 50 abandoned hardrock mine reclamation projects across six western states in cooperation with state and federal agencies, mining, foundation, industry, and other philanthropic partners. This is in addition to our work reclaiming abandoned coal mines in Appalachia, and recently expanded efforts to restore streams impacted by placer mining in Alaska, and we aspire to do even more in the coming years. To date, these projects have restored more than 200 stream miles across the West. In most cases, until passage of the Good Samaritan legislation, we were limited to work on public lands so that our public land agency partners could hold the liability for us.

Our technical, partner-based approach has enabled us to become an industry leader in abandoned mine restoration. Many of those projects would not be possible without the financial and technical support from our private industry partners. Foundations such as the Tiffany & Company Foundation and companies such as Freeport McMoRan, Newmont Mining, Integra Resources, Kinross Gold Corporation, and Ouray Silver Mines Incorporated, provide valuable financial support and expertise that allows TU to leverage matching funds to accomplish meaningful reclamation, with measurable environmental improvements and positive economic impacts for local communities.

¹ GAO-20-238, *Information on Number of Mines, Expenditures, and Factors That Limit Efforts to Address Hazards*
<https://www.gao.gov/products/GAO-20-238>

We and our partners have shown that working together we can make a difference on the ground cleaning up the scourge of abandoned mines, and in the halls of Congress affecting policymaking for the common good.

Funding barriers to progress that Congress must address

Tens of thousands of abandoned legacy mines negatively affect our nation's waters every single day. The reality is that this is a completely solvable problem.

Just about every commodity produced off of our public lands has an associated royalty or fee that helps to address remediation or restoration from legacy development. We respect and appreciate that mining companies must make years, and often millions of dollars, in investments before they can mine, but there should be a common-sense royalty once new mines are up and running to help pay for the clean-up of legacy mines. We urge Congress to enact a fair royalty and/or fee structure for minerals extracted from public lands. We do it with oil and natural gas. The coal industry alone has paid more than \$12 billion in royalties associated with the Abandoned Mineland Fund to help clean up abandoned coal mine across Appalachia and parts of the West. If we can do it with coal, we can do it with hardrock minerals, especially given the immense need.

To be certain, not all abandoned mines pollute equally, but it is important that any new royalty and/or fees are both fair for the mining industry and generate enough revenue to make substantial progress cleaning up abandoned mines.

The *Mining Waste, Fraud, and Abuse Prevention Act of 2025* (S. 859) would achieve these objectives by establishing an adjustable royalty between five percent and eight percent of the gross income from mining locatable minerals on public lands. I do not claim to be an expert on royalties, but certainly reasonable people can come together and determine a fair royalty that would allow the industry to plan with certainty while providing relief addressing the scourge of abandoned mines. Money generated from these royalties would then be dedicated to the Department of the Interior's Abandoned Hardrock Mine Reclamation Program, including inventorying, reclaiming and remediating abandoned hardrock mine lands.

Importantly, this royalty would only apply to new mining operations. Additionally, royalty relief should be provided if production would not occur without a reduction in royalty. Taken together, this would ensure a fair return on the production of locatable minerals on federal lands, create flexibility necessary for a sustainable domestic mining industry, and generate much needed funding to address abandoned mines. We urge your support for these provisions.

We also note that the *Mining Regulatory Clarity Act* (S.544) would dedicate maintenance fees for mill sites to be used for cleaning up abandoned mines. This is a good start but far from sufficient to address this enormous problem, as I will discuss further below.

Society relies on secure critical mineral supply chains

According to the International Energy Agency, the energy sector's overall need for critical minerals could increase by as much as six times by 2040. Critical minerals such as lithium, cobalt, tellurium and rare earth elements are important in electric vehicles, solar panels and wind turbines, and non-critical base metals such as copper will likewise see increased demand.

Supplying this demand and securing supply chains for these minerals is important for the economic and national security of the United States, including diversifying our energy portfolio. Before seeking new sources of raw materials, we should prioritize and fully utilize alternatives, such as recycling, substitutes to critical minerals, reprocessing old mine waste piles (while cleaning up the remaining abandoned mines) and ash material, and engineering advancements to reduce use and the need for new mines.

The *Critical Materials Future Act of 2025* (S.596) takes a holistic view of the entire supply chain by helping to address shortcomings in processing through innovative financial mechanisms, such as contracts for differences and advanced market commitments. Simply mining more domestically will not meet our national needs and reduce vulnerability if those minerals are shipped overseas for processing.

Additionally, we appreciate that S.596 requires reporting on the potential of critical material recycling to support the domestic critical materials market. This will provide a more complete understanding of how recycling can help meet demand, as well as demand that must be made up through other sources, such as new greenfield mines in unexplored or previously undeveloped areas.

Similarly, the *Critical Minerals Security Act of 2025* (S.789) provides a more complete picture of critical minerals supplies across the world and will aid policymakers in making informed and data-driven strategies to secure supply chains, including advanced recycling technologies and circularity. We recommend, however, that subsection (d) of S.789, Strategy on Development of Advanced Mining, Refining Separation, Processing and Recycling Technologies, be expanded to include reprocessing of historic mine waste. It seems only logical to encourage the use of historic mine waste if it can be put to productive use.

Abandoned mine cleanups have the potential to remediate sites while also recovering minerals from historic mining waste that can help to meet the need for critical minerals. At the same time, mining for both critical and non-critical minerals is likely to increase, and it is crucial that extracting and processing critical minerals be done responsibly with an emphasis on avoiding, minimizing, and mitigating impacts to fish, wildlife, and drinking water supplies.

However, even with advancements in recycling and reprocessing to help meet demand, domestic mining is and will continue to be an important part of the solution for our energy transition and to supply other minerals needed by the Nation. As such, we encourage the Committee to consider in the future additional, bipartisan legislation in this space, such as the *Unearth Innovation Act* (S.598), legislation that will help spur innovation to responsibly produce critical minerals with less environmental impact.

The *Unearth Innovation Act* would authorize \$100 million over ten years for the Department of Energy to develop a new Mining and Mineral Innovation Program. This initiative would prioritize and aid the deployment of best practices and technologies that reduce the impacts of mineral recovery, improve environmental performance at new and existing mines, and facilitate remediation of abandoned and inactive mine sites. These strategic investments in research and development will help to responsibly secure critical mineral supplies, reduce the environmental and social impacts from domestic mining operations, and reduce the need for new mining through innovative technologies such as reprocessing historic mine waste, recycling, improved mineral recovery, and extending the lifespan of critical minerals already in circulation through the reuse, repurposing, and reparability of products.

Federal land management agencies must have the proper authorities to manage and embrace risk

A critical minerals mining “rush” will create new environmental and social challenges, and the subcommittee is right to take a hard look at the Mining Law of 1872 as well as the implications of the Rosemont judicial decision. We are encouraged that S.544 and S.859 are being considered together at this hearing and we urge Congress to continue to approach these issues in an integrated manner.

An integrated and balanced path forward means both reasonable updates to the 1872 Mining Law and reasonably addressing legal uncertainties to the mining industry that stem from the Rosemont decision.

Importantly, public land management agencies need better tools and resources to manage mining. Much progress has been made in the field of mining to minimize impacts from operations, including greater consideration of fish and wildlife habitat. But there needs to be some measure of discretion given to agencies to decide whether to allow mining in critical habitats or community drinking water supplies or sacred sites, for example.

In recent years we have seen broad bipartisan agreement that some places such as Bristol Bay or the gateway to Yellowstone National Park are not appropriate for mining. But it should not take an act of Congress or for the EPA to intervene in dramatic fashion to stop ill-advised mining proposals such as those.

As they do with every other multiple use on public lands, public land managers should have the discretion to determine lands that are suitable for mining. Ensuring equal consideration for all public land multiple uses – including conservation – will allow for sound, science-based decisions.

S.859 Act would do this by allowing for mineral withdrawals utilizing criteria enumerated in the Federal Land Policy and Management Act for the development and revision of land use plans, including weighing long-term benefits to the public against short-term benefits; coordination with state and local governments; observing the principles of multiple use and sustained yield; and assuring consideration of state, local, and Tribal plans.

In addition to advancing these provisions, we also encourage Congress to consider opportunities at the local land use planning level (i.e., Forest Plans and Resource Management Plans) for local Forest Service and BLM deciding officials to make suitability decisions for lands open to claim staking. This would be similar to how the Forest Service and BLM make lands available for oil and gas leasing and other resource uses. These decisions are in effect for the duration of the plan (intended to be 10-15 years) but may be adjusted sooner through a land use plan amendment. For lands that a forest plan or resource management plan has identified as open for claim staking, self-initiation for mining claims and security of tenure for exploration and mining would continue as it does today and has for over 150 years.

I am well aware of the significant investment made by mining companies to discover, explore, and bring to permit prospective mining operations. Discretion for land managers should be applied early in the process so that mining companies and their investors do not waste time and capital.

Responsible domestic mining on federal lands requires staffing our federal land management agencies with interdisciplinary professionals in the fields of engineering, geology, hydrology, fish and wildlife biology, botany, and cultural resources, just to name a few disciplines, along with the support staff and programs. Without these resource professional and public servants, permitting for mining – along with all the other services our public lands provide society – will slow dramatically. If we are serious about increasing responsible, domestic mineral production, we must be serious about ensuring our federal land

management agencies have the personnel, talent, resources and expertise to wisely steward this vast wealth of the Nation – our public lands.

Rosemont court decision and a path forward

Lastly, I want to address the so-called Rosemont court decision and the *Mining Regulatory Clarity Act* (S.544). We recognize that the Rosemont decision has created a great deal of uncertainty for mining on public lands, and this issue is something that Congress is correct to address.

We appreciate the bill sponsor’s efforts to find a reasonable and workable solution to resolve this uncertainty. S. 544 is a more narrow, targeted proposal that avoids a number of concerns with the prior version of this legislation that Trout Unlimited raised in our testimony during the Public Lands, Forests, and Mining Subcommittee hearing held on December 12, 2023.

As we did in that hearing, we continue to emphasize that legislation to resolve uncertainty stemming from the *Rosemont* decision must be paired with meaningful reforms to the 1872 Mining Law, including both dedicated funding for abandoned mine cleanups and some measure of discretion given to agencies to decide whether to allow mining – or not – in critical habitats, community drinking water supplies, or sacred sites, for example.

Responsible domestic mining can help meet critical mineral supply chain challenges. Improved certainty for the mining industry and reforming outdated mining laws can be a win-win compromise that allows for responsible mining in the future while cleaning up the mistakes of the past. Accordingly, we encourage amendments that will ensure the legislation is narrowly targeted to address the relevant issues and specific challenges resulting from the *Rosemont* decision. The following recommendations are offered to ensure that this legislative proposal is implemented as intended and does not create new uncertainty for either the mining industry or other public land users and stakeholders.

- The use and occupancy of a mill site should be contingent upon the development of a valuable mineral deposit on a lode claim (i.e., a valid claim). While it is assumed that a claim holder has passed the so-called “prudent man” test, if they are proposing to invest resources in developing a mine, we encourage the committee to be explicit that the use and occupancy of mill site is contingent upon the development of an economically viable mine.
- The uncertainty created by the Rosemont decision is primarily applicable to hardrock mining, not placer. As such, a *Rosemont* fix should only apply to lode claims, not both lode and placer. We recommend excluding placer claims.
- We appreciate that S.544 includes a savings clause to clarify that the provisions do not apply to areas withdrawn from mining laws, such as National Parks and wilderness areas. While we support the inclusion of this savings clause to ensure that lands not open to mining are not subject to mining, we encourage the committee to clarify that the Department of the Interior also retains explicit authority to conduct validity exams on public lands that are open to mining, as well as regulate mining-related activities pursuant to all applicable Federal laws.
- The term ‘mill site’ is defined as, “a location of public land that is reasonably necessary for waste rock or tailings disposal or other operations reasonably incident to mineral development.” The *Rosemont* decision only addressed the permanent occupancy of public land for the purposes of disposing of waste rock. We urge the committee to please delete “other operations,” as that would include mining-related, impermanent uses that the Rosemont decision does not affect, such as the construction of roads, transmission lines, structures, etc.

- The proposal would allow a proprietor to “locate and include within the plan of operations as many mill site claims...as are reasonably necessary for its operations.” The term “reasonably necessary” is imprecise and could allow for an unlimited number of mill sites. We encourage the committee to consider refining this provision to specify that a proprietor may locate, “only as many mill site claims under this subsection as are reasonably necessary for its operations and that create the minimum amount of degradation to public lands and waters,” or language of similar effect.

As noted previously, we support mill site fees being directed to the Abandoned Hardrock Mine Remediation Program. However, even if all the approximately 515,000 mining claims and sites on public land were to become mill sites, this would generate \$103 million per year. It is estimated that cleaning up abandoned mines could cost more than \$50 billion – at this rate of funding, it would take five centuries to fully address this crisis!

We note, too, that despite bipartisan support from members of this Committee for increased Congressional appropriation to the Section 40704 Abandoned Hardrock Mine Remediation Program, appropriators have not heeded the call. Annual appropriations have averaged only \$5 million per year split between state, Tribal and federal agencies. We must systematically rethink how we fund abandoned mine cleanups.

Clearly much more needs to be done and we encourage the committee to fully consider the following proposals to be paired with increased regulatory certainty:

- Deposit all excess locatable, placer and mill sites claim maintenance fees (more than the amount necessary for mining law administration) into the Section 40704 fund. This proposal has been widely supported by stakeholders, including both the mining industry and the environmental community.
- In addition to the above recommendation, increase claim maintenance fees beyond the current \$200/claim fee.
- Create a new, yearly, per-claim fee dedicated wholly to the Section 40704 Abandoned Hardrock Mine Remediation Program. Similar proposals have been included in previous legislation (e.g., H.R. 3201, sponsored by Rep. Lamborn (R-CO) in the 111th Congress) and this funding would go into effect immediately, helping fill the funding gap while royalties from new mining operations take time to come online.
- Enact a reasonable and fair royalty on the extraction of hardrock minerals from public lands. Some in the mining industry are on record with an openness to considering royalties that are practical and not punitive. This is an area of common interest, and we strongly encourage the Committee to work with stakeholders to find a path forward.

Conclusion

We have fought and bickered and disagreed over mining on public lands for over 100 years. Certainly, there is a common-sense compromise within our reach that would provide sufficient, dedicated funding for abandoned mine cleanups, allow that certain landscapes are inappropriate for mining, and at that same time address the legal and regulatory certainty needed by the hardrock mining industry.

You have my commitment and the commitment of Trout Unlimited to continue working in good faith to strike a balance we can all support.

Thank you for the opportunity to testify today. Trout Unlimited appreciates the leadership of Chairman Lee, Ranking Member Heinrich, and other Committee members to explore these complex issues and seek collaborative solutions that benefit our environment, communities and society.