Testimony of
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H.R. 4402, Strategic and Critical Minerals Production Act of 2012

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Good morning. I am Hal Quinn, president and chief executive officer of the National Mining Association (NMA). NMA is the national trade association representing the producers of most of the nation's coal, metals, industrial and agricultural minerals; manufacturers of mining and mineral processing machinery, equipment and supplies: and engineering and consulting firms, financial institutions and other firms serving the mining industry.

Today I am testifying in support of H.R. 4402, the Strategic and Critical Minerals Production Act of 2012. I want to thank Representative Amodei for his introduction of this very important legislation and the Subcommittee, especially Congressman Lamborn, for its leadership and persistence in addressing a serious challenge to our economic and national security – the availability of the critical minerals that are the building blocks of our society, playing a vital role in innovation, national security and economic growth.

H.R. 4402 tackles one of the highest hurdles for domestic mining: permit delays. The length, complexity and uncertainty of the permitting process are the primary reasons investors give for not investing is U.S. minerals mining. In the U.S., necessary government authorizations now take close to 10 years to secure, resulting in decreased competitiveness and increased reliance on foreign sources of minerals. Permitting delays for mining projects is not a new problem. What is new is the growing awareness of its implications for our nation, particularly in a highly competitive world economy in which the demand for minerals continues to grow, especially in fast growing economies led by China and India.

A recent KPMG report that looks at sustainability megaforces that will impact "each and every business" over the next 20 years predicts by 2030 that 83 billion tons of minerals, metals and biomass will be extracted from the earth: 55 percent more than in 2010. The study authors conclude: "the message is clear; over the next 20 years, demand for material resources will soar while supplies will become increasingly difficult to obtain." (Expect the Unexpected: Building business value in a changing world – KPMG, 2012) Just this week, China's Minister of Land and Resources said his country will have to substantially increase both domestic production and imports of minerals in short supply over the next 10-20 years.

THE PROBLEM IS REAL

More than a decade ago, the National Academy of Sciences' National Research Council found that:

> Th[e] process has become much slower and more costly than was originally intended or than it needs to be. It commonly imposes data collection and analysis requirements on the applicant and the regulatory agency that are poorly coordinated, excessively expensive, and of uneven value in protecting the environment. Mining operators are entitled to a

> permitting process that is as timely and cost effective as possible while still achieving compliance with all statutes and regulations.

(National Resources Council, Hardrock Mining on Federal Lands, p. 54 (1999).)

For several consecutive years, Behre Dolbear, the international consulting firm that advises mining companies globally, has identified the U.S. as having one of the longest permitting processes in the world for mining projects, placing domestic mining investments at a competitive disadvantage. In fact, the firm concludes permitting delays are the most significant risk to mining projects in the United States. (Behre Dolbear, Where Not to Invest (2012).) More recently, the Department of Energy identified the 7-10 year period to obtain permits in the United States—as compared to the average 1-2 years in Australia—as one of the principal barriers to new mining ventures in the U.S. (USDOE, Critical Materials Strategy p. 104-05 (Dec. 2010).)

The United States Geological Survey (USGS) recently reviewed permit times for U.S. metal mines in order to better appreciate how long it would take to develop new domestic rare earths mines. As that report reflects, permitting timeframes are often lengthy and unpredictable: "The time to obtain a permit has required as many as 17 years, and one mine, the Pogo, Alaska gold mine, was developed under an expedited permitting schedule that still took 7 years." (USGS, the Principal Rare Earth Elements Deposits of the United States—A Summary of Domestic Deposits and a Global Perspective, 2010 p. 21.)

From the Wall Street Journal to Wall Street investors, there is recognition of the problem and the need for solutions. Two years ago, the Journal reported permit delays have become a drag on U.S. mining projects, concluding that with an average wait time of seven years, companies are looking elsewhere for needed metals and minerals. (Permits Drag on U.S. Mining Projects, *Wall Street Journal, Feb. 8, 2010*.) Similarly, DOE reported that the often-lengthy permitting process, which adds uncertainty and complexity to mine development, may deter investors or delay additional financing. (USDOE, Critical Materials Strategy p. 56 (Dec. 2011).)

Inefficient permitting processes are not unique to mining. The topic plays a prominent role in the President's Council on Jobs and Competiveness December 2011 Report, "Road Map to Renewal: Invest in Our Future, Build on Our Strengths, Play to Win." The report contains numerous recommendations for streamlining regulatory burdens and improving permitting cycle time, focusing in those areas that could create the most jobs. Many of the recommendations are adopted in H.R. 4402, including limiting duplication among different agency reviews, improving litigation management and increasing the responsibilities of lead agencies.

THE IMPLICATIONS ARE REAL

- **Increased Import Reliance**

If U.S. mining cannot perform to its potential, the industry will become increasingly marginalized, and there will be severe consequences for our global competitiveness as we become more reliant upon extended and unstable supply chains for what we can produce here. Overall, the United States' import dependence for key mineral commodities has doubled in the span of two decades. Today, less than half of the mineral needs of U.S. manufacturing are met from domestically mined resources.

President Obama recently acknowledged that failure to develop domestic sources of minerals can be detrimental to our national security. On March 16, 2012, he issued Executive Order 13603, "National Defense Resources Preparedness" directing the Secretaries of Defense and the Interior to "encourage the exploration, development, and mining of strategic and critical materials and other materials."

- **Decreased Ability to Attract Investment Dollars**

According to the Metals Economics Group, the U.S. attracted 20 percent of worldwide exploration investment dollars in 1993. Today, that share has eroded to just 8 percent. The percentage of global exploration spending is a leading indicator of where future development capital will be deployed. As Senator Lisa Murkowski accurately stated last month, the decline in domestic minerals investment cannot be attributed to commodity prices and fickle markets as such a position "ignores the fact that money is being invested, and jobs are being created, throughout the world. It's just not happening here in the United States, at least not like it used to." (Senator Lisa Murkowski, Keynote Address, Technology and Rare Earth Metals Center's 12th Annual Conference, March 13, 2012.)

- **Underperformance**

In 2011, the value added from industries consuming the $64 billion in raw materials from U.S. minerals mining translated into $2.1 trillion of produced goods, or 14 percent, of our GDP. These numbers are substantial, but with raw materials production below its potential, the mining industry is under-delivering on contribution to GDP and employment. Until recently, the U.S. was the global leader in value added of mining to the nation's GDP. We have now slipped to second, behind China. More concerning is that when we look at the ratio of our capital expenditures to the value add of mining to the economy, we lag so substantially that absent significantly higher investments, the U.S. is unlikely to maintain its current overall GDP rank, according to a an analysis by McKinsey & Co.

When viewed through the lens of resource potential, we are punching below our global weight. If we had produced to our resource potential for copper, molybdenum, and iron ore—basic ingredients for key sectors of our economy—an additional $32 billion of

revenue would have been registered in 2008—and multiply that by the value added to the GDP by major industries that convert these materials into finished products, and U.S. mining could have been the starting point for an additional $1 trillion in economic output. With worldwide mining GDP contribution expected to quadruple by 2030, our trajectory will worsen further without intervention.

Despite record job growth in the last decade, the mining industry could have created even more high-paying jobs to keep the U.S. on the road to economic recovery. From 2001 to 2010, direct employment at U.S. metals mining operations was up by 10 percent. The increase in mining support jobs (contractors such as exploration geologists, taking of core samples, excavation, etc.) was even more dramatic, growing by 32 percent from 2001 to 2010. We believe that H.R. 4402 will provide a more predictable regulatory environment that attracts additional investments and allows U.S. mining to build upon its positive contribution to U.S. job creation over the past decade.

MORE EFFICIENT PERMITTING DOES NOT MEAN LESS ENVIRONMENTAL PROTECTION

Without changing environmental and other protections provided by current laws and regulations, H.R. 4402 will bring the U.S. in line with our competitors for minerals exploration investments—countries such as Australia and Canada that have already modernized their permitting regime. Canada and Australia are known for their rigorous environmental requirements for mining. They are good points of comparison with the U.S. given comparable environmental standards, including environmental reviews similar to those required by the U.S. National Environmental Policy Act. Canada and Australia illustrate that permitting efficiencies can be achieved without sacrificing environmental protection.

Canada continues to take advantage of its efficient permitting system, large pool of junior explorers and exploration-focused tax incentives to attract 18 percent of total exploration dollars in 2011—more than twice the U.S. share. Canada maintains approximately a two-year, permitting timeline by implementing a flexible system of oversight that seeks to minimize duplication, uncertainty and delays. The country is also spurring mineral development through Plan Nord, a 20-year government initiative that will see more than $33 billion in Canadian dollars invested in mining and related projects.

Canada continues to look for ways to improve its regulatory and permitting processes to attract investment in mining. Only last week, the Canadian government announced its “one project, one review” permit initiative to provide a more coherent and coordinated approach to environmental assessments for major mining projects. The initiative is intended to allow Canada to better compete internationally for investment and to take advantage of growing emerging market demand for commodities. Similar to H.R. 4402, the initiative involves coordination among agencies, timelines for key regulatory permitting processes, and timelines for hearings.

Timeframes for mining project approvals in Australia are similar to those in Canada. The average processing time for mine permits requiring a formal EIA review (the equivalent of an EIS in the U.S.) in Australia from the scoping phase to approval takes approximately 22.5 months. (Norwest Permitting Study) Permitting efficiencies in Australia contribute significantly to the country's ability to attract 13 percent of the worldwide exploration budget. With the government developing new initiatives to streamline the mining approval process, especially in the resource-rich areas of Western Australian, South Australian and Queensland, Australia will likely remain one of the favored regions for mineral investments.

The U.S. difficulty in competing with Canada and Australia is not a reflection on the nation's mineral wealth. The U.S. has some of the world's greatest mineral reserves, leading the world in the breadth of its commodity reserves. Furthermore, according to the USGS, when it comes to copper, silver and zinc and other key minerals "what is left to be discovered in the U.S. is almost as much as what has been discovered." But our ability to put these minerals to work for America is hindered by a costly and inefficient permitting structure.

H.R. 4402 ALLOWS THE U.S TO UNLOCK ITS MINERAL POTENTIAL

The permitting improvements outlined in H.R. 4402 would allow us to unlock our full domestic potential. Mirroring ideas from the President's Jobs Council, the Council on Environmental Quality guidance on a more efficient NEPA process, and best permitting practices of other countries, the bill takes important and constructive steps to improve permitting efficiencies in the U.S. Specifically, H.R. 4402:

- Requires the Department of the Interior and the Department of Agriculture to more efficiently develop domestic sources of strategic and critical minerals and mineral materials; including rare earth elements.
- Includes domestic mines that provide strategic and critical minerals within the scope of "infrastructure projects" for the purposes of Executive Order 13604, which requires a significant reduction in the review and permitting timeframes for infrastructure projects.
- Facilitates timely permitting process for mineral exploration and mine development projects by clearly defining the responsibilities of a lead agency to include the establishment of binding timeframes, coordination with other agencies and reliance on existing data and reviews.
- Limits the total review process for issuing permits to 30 months unless signatories to the permitting timeline agree to an extension.
- Addresses the bureaucratic delays associated with agency review of NEPA notices by delegating the activity to state offices and limiting reviews to 30 days.
- Reduces delays posed by litigation over permitting decisions by requiring challenges to be filed within 60 days of the final agency action.

In a world in which the competition for mineral resources is increasingly fierce, America can no longer afford to benignly neglect a permitting process that stalls investment—

threatening raw material shortages and downstream economic activity. We need assertive measures, such as those provided by H.R. 4402, to reverse a 30-year trend of increasing import reliance for materials we have here at home and lend a much-needed hand to the industries that will put Americans back to work. Thank you for the opportunity to testify today.