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December 28, 2020

Mr. Alexander H. Herrgott
Executive Director
Federal Permitting Improvement Steering Council
1800 G St. NW
Suite 2400
Washington, DC 20006
Submitted via regulations.gov

RE: Federal Permitting Improvement Steering Council Proposed Rule to Add Mining as a Covered Sector (RIN 3121-AA01 and FPISC Case 2020-001)

Dear Mr. Herrgott,

The Alaska Miners Association (AMA) appreciates the opportunity to submit comments in support of the Federal Permitting Improvement Steering Council's (FPISC or Council) proposed rule to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST-41).

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

Mining is a comprehensively regulated industry and opening or expanding a mine in the U.S. typically involves multiple agencies and the navigation of tens or even hundreds of permitting processes at the local, state and federal levels. The current permitting process is plagued by uncertainties and delays arising from duplication among federal and state agencies, the absence of firm timelines for completing environmental assessments and failures in coordination of responsibilities between various agencies. In the U.S., necessary government authorizations now take an average of seven to 10 years to secure, placing the U.S. at a competitive disadvantage in attracting investment for mineral development. The addition of mining as a covered sector provides a pathway to reduce permitting inefficiencies while retaining our world-class environmental protections.

Alaska's mining industry has countless examples of permitting delay experiences. With dozens of federal, state, and local government agency permits required to develop a mining project, oftentimes a single permit can become burdened by bureaucracy even though other and most significant major permits have been obtained in which a mine would almost be able to proceed. Perhaps the most high-profile example is the Kensington mine in Southeast Alaska – it took over 19 years to finally obtain the

90 separate permits required to move to production. However, there are many more projects still in development phases that see similar challenges in efficient, productive permitting.

It should not take 19 years to permit a mine in our nation. It shouldn't take 9. The well-intentioned NEPA process was created to protect the environment while building economic opportunity, and decades later, the process has become less resilient.

FAST-41 is intended to improve the timeliness, predictability and transparency of the federal environmental review processes for covered infrastructure projects. While mining was not originally included as a covered sector, the Act allows the FPISC to designate additional sectors by majority vote of Council members. Notably, the Council unanimously voted to add mining in January of 2020, observing that “minerals and metals are integral to many infrastructure projects and play a vital role in reducing our reliance on foreign sources of minerals for national and economic security, including expansion of U.S. production of renewable energy in wind turbines, solar panels and energy storage batteries.”

The Council's vote clearly recognized that mining projects involve the complex permitting processes that the Act was designed to facilitate. Many mining projects meet the standard stated criteria for FAST-41 coverage: a U.S. infrastructure project that is subject to the National Environmental Policy Act (NEPA), requires authorization by a federal agency and is likely to require more than \$200 million in investment. Even more mining projects qualify under the alternative criteria for inclusion. As explained in the proposal, the alternative criteria allow projects to be covered if they are subject to NEPA, and “in the opinion of the Permitting Council, the size and complexity of the project, make it likely to benefit for the enhanced oversight and coordination provided by FAST-41, including projects likely to require environmental review and authorization from multiple agencies or projects for which the preparation of an environmental impact statement (EIS) is required.” Nearly all major mining projects are subject to NEPA, require an EIS and involve a maze of permitting process by multiple agencies.

Mining is defined in 40 C.F.R. Section 440.132 (g), and could be defined in Fast 41 as follows:

“Mine” is an active mining area, including all land and property placed under, or above the surface of such land, used in or resulting from the work of extracting metal ore or minerals from their natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles, wastes, or rock dumps and mill tailings derived from the mining, cleaning, or concentration of metal ores.

Despite recent improvements in NEPA processes over the last several years, there is still room for improvement. Increasing the efficiency of the mine permitting process will help reduce our nation's growing dependence on imports and reduce the vulnerabilities created by extended, complex and fragile supply chains. The most recent USGS [Mineral Commodity Summaries](#) indicates the U.S. is 100 percent import reliant for 17 key mineral resources and more than 50 percent import reliant for an additional 29. The trend line is troubling: U.S. mineral dependency is at a record-high, now double what it was 20 years ago.

These trends are untenable given the growing global demand and competition for minerals that power economies worldwide. For example, a recent [World Bank Group report](#) found that the production of minerals, such as graphite, lithium and cobalt, could increase by nearly 500% by 2050 to meet the growing demand for clean energy technologies. The report additionally estimated that “over 3 billion tons of minerals and metals will be needed to deploy wind, solar and geothermal power, as well as energy storage, required for achieving a below 2°C future.” Similarly, Wood Mackenzie produced a base case for mineral demand under a 3°C pathway, forecasting copper and aluminum demand to increase by about a third by 2040, nickel by two-thirds, and cobalt and lithium by 200% and 600%, respectively. A 2 °C or lower pathway doubles those growth rates. Matching the speed and scale of this rising demand requires a permitting regime that enables the mining sector to respond to market signals. Current U.S. permitting timelines do not.

Mine permit delays also play a role in the reduced investment in U.S. mining projects. Nearly two decades ago, the U.S. attracted almost 20 percent of the world’s mining investment but now attracts approximately 7-8 percent or about half of the amount of investment dollars going to Canada and Australia. To improve investment attractiveness for mining projects, the U.S. needs to provide more certainty in permitting timeframes akin to Canada and Australia. Both countries have modernized their permitting regimes so that the required permits can generally be obtained in two to three years. Importantly, Canada and Australia are known for their rigorous environmental requirements for mining, including environmental reviews similar to those required by the U.S. NEPA. Canada and Australia illustrate that permitting efficiencies can be achieved without sacrificing environmental protection.

The FAST Act is an appropriate vehicle for addressing the inefficiencies that hinder our ability to timely access and production of the minerals and metals that serve as the front end of the supply chain for any infrastructure projects. Inclusion of mining projects within the scope of the FAST Act would facilitate more timely permits, without sacrificing any environmental protections and thereby, address the troubling trends of increased mineral import reliance and decreased exploration investment. We urge the Council to expeditiously finalize the proposed rule.

Sincerely,



Deantha Skibinski
Executive Director