The Mining Regulatory Clarity Act is Not an Environmental Issue

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Mines are complex. Designs take years to develop, and must balance the location of components like access routes, entry shafts, and tailings ponds to function effectively together while adhering to environmental standards. The General Mining Law of 1872 (GML) complicates the process by requiring developers to dedicate areas of their operations to specific components, inflexibly and in advance.

Reducing mine project lead times remains an imperative for securing U.S. critical mineral supply chains. The bipartisan Mining Regulatory Clarity Act (MRCA) offers a way to increase the efficiency of the mine planning and permitting process by reforming two key aspects of the GML that would:

1. Allow developers to change the types of mining claims in their plan of operations; and
2. Confirm the long-standing practice that designs do not need to arbitrarily limit the number of waste rock disposal sites based on the number of excavation sites.

Contrary to misperceptions, these changes would not affect environmental outcomes. The GML governs arcane aspects of how developers arrange parcels of federal land for mining, like the width to which a claim extends from the centerline of a copper vein. It neither implicates environmental concerns nor supersedes the laws that do. So, the changes to the GML that the MRCA proposes will increase the efficiency of planning and permitting without altering any environmental standards.

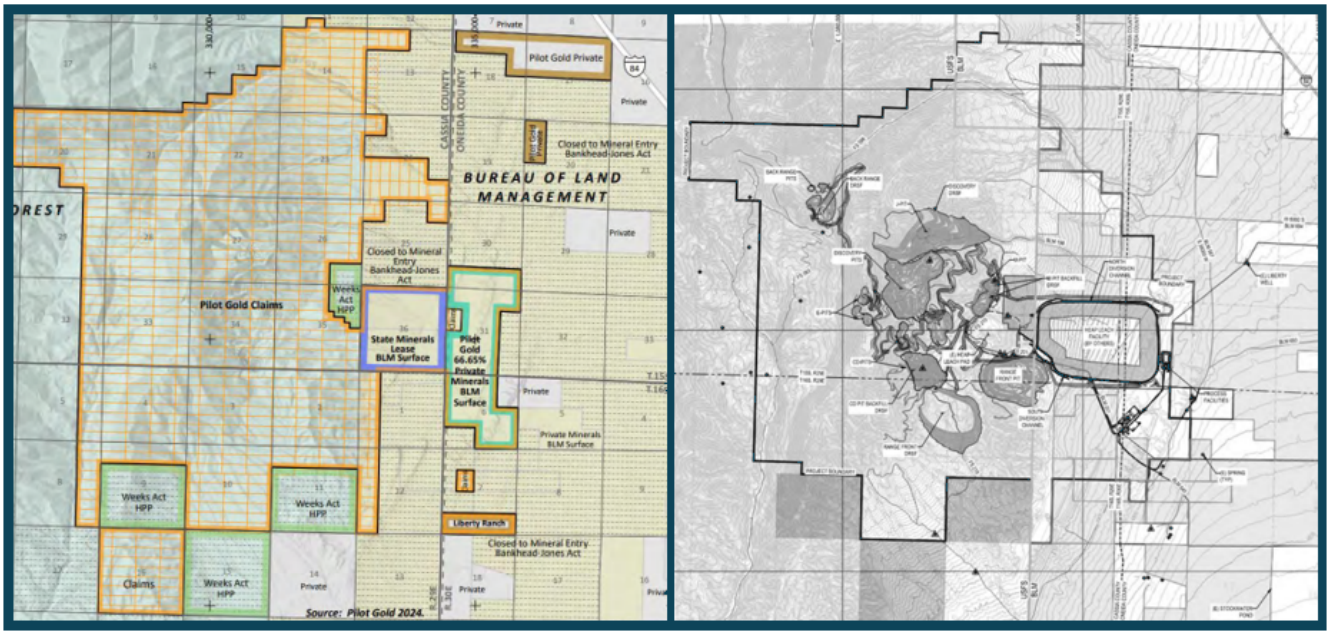
CLAIM FLEXIBILITY

The GML requires developers to file parcels of federal land in their designs either as mining claims—where they plan to excavate—or as mill sites for other purposes like storing waste rock. Nevertheless, designs routinely change in response to new data gained throughout the planning process. For instance, identification of endangered species during permitting may require moving a haul road to preserve habitat. These revisions can add years to permitting timelines.

The MRCA would allow developers to convert a mining claim to a mill site. This avoids the time-consuming process of abandoning and refiling hundreds of individual claims, and removes the risk of third parties disrupting the project by claiming the parcels during the transition.

Just like excavations, waste rock disposal is a legal use of federal land that is open to mining under the GML. Switching claim types will not permit a mining operation to increase impacts on federal lands by performing unauthorized activities. Rather, greater flexibility would simply make it easier for an operator to change where activities occur within an existing footprint. Even then, agencies retain authority to reject new mill sites if they are needlessly expansive, pose risks to environmentally sensitive areas, or extend into areas banned from mining.

In fact, flexibility to switch claims can reduce an operation's impact by allowing more compact footprints. If the developer no longer plans to excavate on portions of their previously filed mining claims, converting those areas to mill sites would allow them to efficiently leverage otherwise unused land instead of expanding their footprint.



Mine designs become an intricate mix of hundreds of individual mining claims and mill sites (small rectangles).

MILL SITE AND MINE CLAIM PROPORTIONS

The MRCA also confirms that developers do not need to limit the number of mill sites included in their designs. While agencies have long allowed such flexibility as standard practice, the Clinton administration attempted to issue regulations requiring developers to file only one mill site per mining claim. However, the GML applies no such limitations, which courts confirmed in 2024. Codification would provide industry with greater regulatory certainty, lowering market risks.

Opponents of the bill have incorrectly claimed that such a codification would allow developers to indiscriminately dump waste rock on federal lands. However, this mischaracterization ignores the bill's reiteration that mill sites must occur on land where mining is allowed and within a plan of operations subject to agency approval. Furthermore, agencies would retain the same authority to limit mill sites to those reasonably necessary and reject plans that propose inefficient designs.

OFF-CLAIM ACTIVITIES

Some policymakers have expressed concern that the definition of "operations" in the MRCA would authorize mining activities to occur on federal land not currently open to mining. The bill uses a regulatory definition of "operations" that includes off-claim activities but clearly specifies that these only apply to incidental uses like access routes. Furthermore, the GML and land management laws like the Federal Land Policy and Management Act already allow incidental off-claim uses. These again do not supersede agencies' authority to require right-of-way permits to enforce environmental laws. Thus codification of the regulatory definition of "operations" would not practically change agency management of public lands.

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