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July 26, 2013

Honorable Cory Gardner
House of Representatives
213 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Gardner:

The purpose of this letter is to communicate Western Governors' support of the Reducing Excessive Deadline Obligations Act (H.R. 2279). The Environmental Protection Agency (EPA) initiated a rulemaking on financial responsibility under Section 108(b) of CERCLA over two years ago. Hard rock mining was the first industry sector EPA chose to investigate. At the time, EPA expected to publish a proposed rule in April of 2013.

From the beginning of the rulemaking process, Governors have been concerned about federal pre-emption of existing and effective state regulatory and financial assurance procedures for hard rock mining. Attached please find a policy resolution Western Governors adopted two years ago outlining their concerns.

All western states have developed regulatory programs to evaluate and approve the financial assurances required of hard rock mining companies. The states have developed the staff and expertise necessary to calculate the appropriate amount of appropriate financial assurance, based on the unique circumstances of each mining operation, as well as to make informed predictions of how the real value of current financial assurance may change over the life of the mine (and even post-closure).


State mining agencies provided detailed information to EPA two years ago on the structure and extent of state hard rock mining financial assurance requirements. EPA has yet to indicate if or what problems or gaps the agency has found in existing state requirements. Recently, EPA indicated that a rulemaking on this issue is not likely for at least another year.

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The Governors appreciate H.R. 2279's recognition of the extensive work states have already done in this area. In particular, they support the bill's language intended to assure that any action by the agency related to financial responsibility under Section 108(b) of CERCLA does not pre-empt the financial requirements of states.

With appreciation for your leadership and best wishes for continued success, I am

Respectfully,



James D. Ogsbury
Executive Director

Attachment

cc:

Honorable Fred Upton, Chairman, Committee on Energy and Commerce
Honorable Henry Waxman, Ranking Member, Committee on Energy and Commerce
Bill Shuster, Chairman, Committee on Transportation and Infrastructure
Nick J. Rahall, II, Ranking Member, Committee on Transportation and Infrastructure