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16 August 2022

Steven Feldgus
Deputy Assistant Secretary
Land and Minerals Management
1849 C Street NW
Room 5645
Washington, DC 20240

Dear Mr. Feldgus,

Request for Information to Inform Interagency Working Group on Mining Regulations, Laws, and Permitting

Dear Mr. Feldgus:

BHP ("we" as applicable) is pleased to submit this letter in a response to the Department of Interior's ("DOI") request for comments upon announcing the formation of an Interagency Working Group to gather information and develop recommendations for improving federal hard rock mining regulations, laws, and permitting processes.

As the DOI recognizes, the private sector has a pivotal role to play in developing suggestions to streamline and ensure the success of U.S. mining. We applaud the DOI's leadership in working with stakeholders on this important issue and thank you in advance for taking our views into consideration.

As one of the world's largest mining companies, we are pleased to share our views on how the U.S. can enhance its mining regulatory framework with a focus on both strengthening standards and boosting domestic production. We are committed to playing our part to help accelerate the global pathway to decarbonization, which includes increasing awareness about mining's vital role: providing essential commodities as the building blocks for renewable energy and decarbonization infrastructure to enable a net-zero future.

About BHP

BHP is a leading global resources company headquartered in Melbourne, Australia. BHP's company purpose is to bring people and resources together to build a better world.

BHP produces essential resources the world needs to decarbonize and develop sustainably. Our commodities, including iron ore, copper, nickel and metallurgical coal and our operated assets are in Australia and Chile. We also hold interests in assets that are owned as a joint venture, but are not operated by BHP, in Brazil, Peru and the U.S. We have approximately 80,000 employees and contractors, and globally generated more than $60 billion in sales last year.

We believe the world is going to need an increasing supply of essential commodities to sustain global economic growth and ensure the success of decarbonization. Our recent climate change scenario analysis indicates that, in a 1.5°C world, the world is expected to need twice as much steel and copper, and nearly four times as much nickel, over the next 30 years compared to the last 30 years.

As a company, we put health and safety first, and are focused on environmental responsibility, respect human rights and support the communities where we operate. We are deeply committed to making a positive difference and have embraced sustainability as a core part of who we are and what we do.

Social Value in action

Social value is BHP's positive contribution to society – to our people, partners, the economy, the environment, local communities, and shareholders. All anchored in enduring, mutually beneficial and trusting relationships.
We recently launched our new social value framework, which sets out six social value priorities based on where we can have the most impact. The framework is underpinned by a new 2030 social value scorecard, which outlines the goals, metrics, and milestones that we will use to measure progress and hold ourselves to account.

Our six social value priorities and goals are outlined in the diagram below.

As an example of our social value in action we recently launched a carbon neutral copper pilot project with Southwire. Working in partnership with Southwire, a leading US copper cable and wire manufacturer, and using blockchain technology, the pilot project was implemented for tracing our copper cathodes and associated greenhouse gas emissions from our operations in Chile through to Southwire's rod production in the United States across a series of shipments. The outcome of the pilot resulted in the first ever 'carbon neutral' sale of any of BHP's commodities.

Indigenous Peoples Policy

Indigenous Peoples are critical partners and stakeholders in many of BHP's operations both within Australia and around the world. Many of our operations are located on or near lands traditionally owned by or under the customary use of Indigenous Peoples and the long-term nature of our operations allows us to establish long lasting relationships with these Indigenous communities. These relationships are based upon Our Charter value of respect, through which we seek meaningful engagement, trust, and mutual benefit. Through this experience we understand that Indigenous Peoples often have profound and special connections to, and identification with, lands and waters and that these are tied to their physical, spiritual, cultural and economic well-being.

Through our engagement with Indigenous Peoples we seek to contribute to their sustainable long term economic empowerment, social development needs and cultural well-being. We respect the rights of Indigenous Peoples and acknowledge their right to maintain their culture, identity, traditions, and customs. We commit to the 2013 International Council on Mining and Metals (ICMM) Position Statement on Indigenous Peoples and Mining.

Mining reform

BHP welcomes the U.S. leadership in driving the global transition towards electrification and the renewed focus on sustainable mining by the Biden administration. President Biden's Executive Order 14017 confirms that the U.S. remains reliant on imports for critical minerals, which are essential for achieving its climate goals. BHP believes the U.S. is well-positioned to increase domestic mining and could become a more attractive investment destination given its robust reserves and focus on sustainability, which aligns with the values being demanded by investors and communities. We are pleased to share our view on ways the U.S. could improve its domestic mining environment.

Royalties

We are proud of the valuable contribution we make to communities where we operate and to society. In FY2022, our total direct economic contribution was $78.1 billion. This included $17.3 billion in taxes, royalties, and other payments to governments. Our global adjusted effective tax rate was 32.1 percent.

We believe companies should pay their fair share of tax. We also recognize that governments in many jurisdictions around the world require companies to pay a royalty in exchange for access to publicly-owned resources. However, high royalties can make the extraction of a commodity uneconomic and too costly. It is our view, that it would be prudent to review and consider international industry best practices and systems to provide useful examples of efficiency for development of thriving mining economics.

Exploration

Claim Process

The current system is outdated and labor intensive for both the claimant and the Bureau of Land Management ("BLM"). The implementation of an online, GIS-based claim system would eliminate the need for on-the-groundwork by a survey/claim staking teams. This has several benefits, including:

- Improving the accuracy of the locations and removal of subjectivity in current regulatory language
- Payments and recordings would be possible in real-time
- Eliminate labor-intensive paper filings by the BLM
- Decrease disturbances required for on-the-ground work and make these activities less carbon intensive and more environmentally friendly and,
- Improved tracking and land availability reporting, in order to reduce the error potential for both the claimant and the BLM

Minerals and Land Records System

Our industry requires a system for identifying where claims exist to better enable business decisions and strategies. There is a great deal of frustration and inefficiency within the mining industry around this process. The current system requires highly specialized skills and knowledge to be able to interpret information. Often this information is only available physically by obtaining paper copies and while the LR2000 system addressed this to an extent, the new MLRS system is more difficult to use and does not produce outputs that are usable or meaningful from the queries. It is also important to note that when developing the MLRS system, no stakeholders or claimants were engaged or had the opportunity to provide input. The current MLRS may work for smaller claimants (less than 10 claims) but for larger claimants such as BHP, it is impractical. We recommend the implement of a GIS-oriented system like those of other countries such as Canada and Australia.

Permitting

BHP has experience around the globe with the permitting of mines, and operates according to the highest environmental, safety and labor standards. BHP believes that if the U.S. is to achieve its policy goals, including those associated with a transition in energy to a low carbon future, together with the associated minerals to facilitate that transition, it must have a much clearer and more predictable permitting process. A permitting process that lacks predictability discourages the capital investment necessary to fund new mining projects. Standardization for work on federal lands would increase stakeholder confidence, transparency, and public return and agency efficiency. Options for optimization include an online permitting system or portal that would include stakeholder engagement and input at all stages to ensure an effective output.

While some element of delay is not at all unusual in the development and permitting phases of a new project, the U.S. should consider reforms that will increase certainty and predictability in the permitting process. Those reforms should include project timelines for which agencies are committed and accountable to meet. Agencies should publish detailed timelines that are commensurate with the permitting timelines of other countries that would allow the review process, once initiated, to conclude in 2 to 2.5 years. It is incorrect that reforms that help provide predictable timeframes require any lowering of environmental standards to be effective. In our experience, other permitting systems maintain high environmental standards while still having an efficient and timely environmental review and approval process. These review processes in Australia and Canada take approximately two years as compared to the U.S. where the average environmental review process is much

longer, adding time and delays to the projects. We also recommend that agencies publish schedules and report annually on their performance in meeting timelines. BHP would welcome the opportunity to speak in more detail about our experiences with various permitting systems that might assist Working Group participants in the consideration of different policy options.

Critical Mineral Development

The success of the U.S. energy transition will depend on the availability of critical minerals to build a low-carbon economy. However, there remains a gap in understanding about which minerals are required to ensure the success of this transition. The current critical minerals list focuses on U.S. import vulnerabilities but does not consider minerals available domestically, such as copper, whose demand will grow exponentially as the U.S. works to meet its energy transition goals. As such, we suggest the U.S. undertake a more comprehensive study of critical minerals to identify the size and scale of key minerals needed to successfully meet its climate change goals.

The United States Geological Survey system has some resources available, however the quality of the data needs improvement and the limited coverage of magnetic and gravity surveys across the Western U.S., makes it difficult for exploration activities. Additionally, there are many studies of mining districts, but those studies have not been updated for many decades. There have been great strides in our understanding of geology since then, and countries like Canada and Australia have up-to-date data and reports that cover large swaths of their countries. Having current and easily accessible data available to companies at the beginning of their exploration activities would be significantly beneficial and would encourage exploration.

Closure Asset Management

The application of the Global Industry Standards for Tailings Management (GISTM) would substantially improve the management standards across the industry for tailings in the U.S. The integrated nature of the industry is such that mining companies are negatively impacted by adverse tailings events even if they are not the operator.

The U.S. government should consider integrating a long-term acid and metalliferous drainage management plan for site water management into the closure management plan for the site. The designation of ephemeral waterways as Waters of the US (WOTUS) is not the ideal approach to regulate environmental impacts to water in arid environments. This approach can result in prolonged permitting issues, and often results in unsuitable protective measures being put in place to protect water. For example, sediment control measures that are required in dry creeks that only see occasional flow is not environmentally or economically feasible. These controls will add multiple millions of dollars to a project, requiring ongoing maintenance and monitoring, while providing no benefit.

The federal government should consider allowing states to regulate water discharges and construction on non-navigable waters (for minor and ephemeral waterways). This approach would allow states to draft specific regulatory approaches for the environmental conditions in their state. For example, preventing suspended solids entering a perennial, fish-bearing creek in Alaska could be environmentally beneficial while preventing suspended solids entering a dry wash in Arizona may provide little benefit. Alternatively, if environmental quality is to be regulated at a federal level, we recommend developing a different tool from WOTUS. A new regulation that focuses solely on environmental requirements that encompasses the multitude of different environmental conditions across the country would be more effective for environmental performance and more effective for industry development.

Off-limit areas

We recognize that not all areas are suitable for mining. We also believe it is vital that industry has certainty over what areas are deemed suitable and not suitable for mining before permits are issued and exploration and mining activities commence.

Accordingly, BHP would support a regulated process that would seek to identify areas on federal lands that should be 'off-limits' to mining. This process should be:

- Underpinned by objective criteria,
- Based on available scientific evidence and input from relevant stakeholders (including mining companies, local communities, Indigenous Peoples, and civil society groups); and

- Transparent in its decision-making and how it balances economic, environmental, and social goals.

To attract the investment needed to unlock the critical mineral potential of the U.S., it is vital that any designation of off-limit areas is only done on a prospective basis and is not used to invalidate permits that have already been issued.

We thank you in advance for your consideration of our suggestions and again want to commend the DOI for its leadership in driving this important effort. We are ready to answer any questions you may have on our submission and would be pleased to support and actively participate.

Respectfully,

Ragnar Udd
President Minerals Americas