

Can Americans learn to love mining critical minerals to get them to the green transformation?

written by Melissa (Mel) Sanderson | October 4, 2022

Democratic Senator Joe Manchin from West Virginia is, let's face it, controversial. His stances on key issues frequently run counter to the majority of his party, and he has blocked key Democratic goals, most notably to abolish the filibuster, which would have enhanced the Democrats ability to pass legislation through the Senate. This hasn't endeared him to most Democratic voters nor to the Party leadership – but he doesn't seem to care. Joe knows how the game is played.

Most recently, for instance, he dickered hard on a deal to advance a key personal objective. President Biden and the Democrats desperately needed to pass the [Inflation Reduction Act](#) which, name notwithstanding, actually has a lot to do with supporting research around rare earths processing, among other things. In exchange for voting “aye” and effectively passing the legislation, Joe negotiated a back-door deal exchanging his vote for support for a Bill he has drafted going much further much faster than the Democrats are comfortable with going for the extractive industries writ large.

Known as the '[Energy Independence And Security Act of 2022](#),' the EISA Bill attempts to make some common sense changes to the existing regulatory regime around permitting new mines in the US. Currently, it takes an average of 10 years to complete the permitting process and that's IF there is no significant social opposition or environmental complications. It can take longer

and of course permits can be refused as well. More frequently, however, government agencies prefer stalling an application until prevailing contrary winds dissipate or the company withdraws the request. It's important to note, however, that COVID has certainly contributed to the lag time on US permitting. Many agencies, including Environmental Protection, Forestry and Fish and Game, all key players in the regulatory framework, had previously suffered serious staffing reductions, either due to budget cuts or employee burnout – and then there was the shutdown. So even with the best of intentions, it's hard to catch up.

EISA attempts to shorten that permitting wait time to two years. It does this mainly by instructing the plethora of Federal agencies to work together and simultaneously (versus the current sequential process) and on one submission (versus currently requiring companies to present unique requests to individual Agencies). It also sets a series of response deadlines for Agencies to revert to companies with questions or requests for additional information – and most of those deadlines are 180 days. It also gives Governors the power to further streamline the process by identifying a project as essential, while encouraging Federal Agencies to more closely cooperate with their State counterparts.

Sounds pretty pragmatic and common sensical, right? Maybe not so much.

At the very end of the Bill, Manchin has language in which Congress essentially mandates approval of the Mountain Valley Pipeline within 30 days of passage of the legislation. This timebomb risks derailing the entire Bill – but it also likely is the reason for the Bill itself. Manchin has been a long-time supporter of the pipeline and some of his biggest and most reliable contributors are financial backers of the project. But

this pipeline is immensely unpopular with a variety of NGOs who had already mobilized against it and therefore a tidal wave of opposition hit the Democrats, derailing Manchin's strategy to attach his Bill to the Continuing Resolution to fund US government operations.

A steady drumbeat of misinformation has begun, playing on Americans' collective dislike of mining in general and new mines in particular. Although the Bill specifically mentions retaining prevailing environmental standards and regulations, NGOs are alleging the Bill will "gut" hard-won environmental legislation. Especially in the runup to what promises to be hotly contested mid-term elections, and with control of the Senate hanging in the balance (and possibly the Hill as well, if things go badly for the Dems), it's unlikely that the Bill even will be put forth for a hearing until after November 8.

The real question, however, isn't whether Joe Manchin will find a way to get this job done – I think he will, he's too able a trench warrior to fail.

The real question is whether Americans are capable of understanding that without new mining of rare earths and critical minerals (including copper) in the US, it will be virtually impossible to realize either the [Green Economic transformation](#) or national security imperatives. Everyone wants to [bash China](#) but no one wants to admit that modern mining isn't your granddad's mine. Americans (collectively) don't want to admit that, thanks to new technologies, strong environmental legislation and intense social media scrutiny, US mines are among the cleanest and safest in the world.

NIMBY huh? Well, Hurricane Ian is yet another reminder that if humans don't change their ways and truly transform our economies, we might have a lot more to worry about than whether

a new rare earth, lithium or copper mine is getting permitted in America.