

The 1872 Mining Law: Time for Reform



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Earthworks



1872 Mining Law

- ✦ The 1872 Mining Law governs the mining of hardrock minerals (gold, silver, copper, platinum, and other minerals) on federal lands.



1872 Mining Law in AK

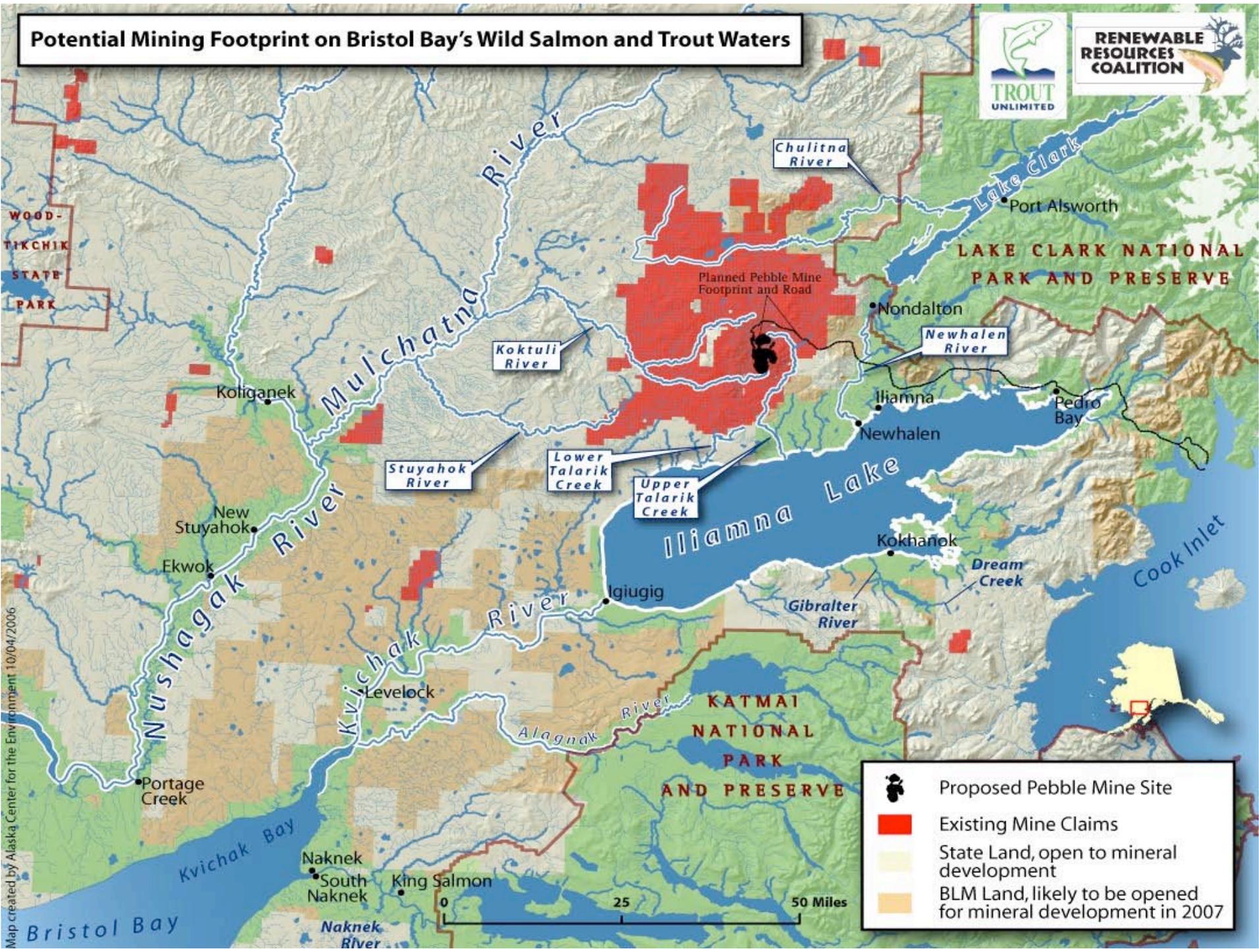
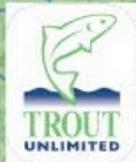
- ✦ d(1) lands opened to mining. These lands were originally withdrawn under ANCSA to maintain the land's status quo while decisions were made about which lands would be conveyed to the State and to Native Corporations.
- ✦ The rest of the land will continue to be managed by the federal government. The amount of these federal lands that will be reopened to mining depends on the outcome of pending resource management plans



Alaska d(1) Land Report Summary

<http://www.blm.gov/ak/ak930/207report/maps.html>

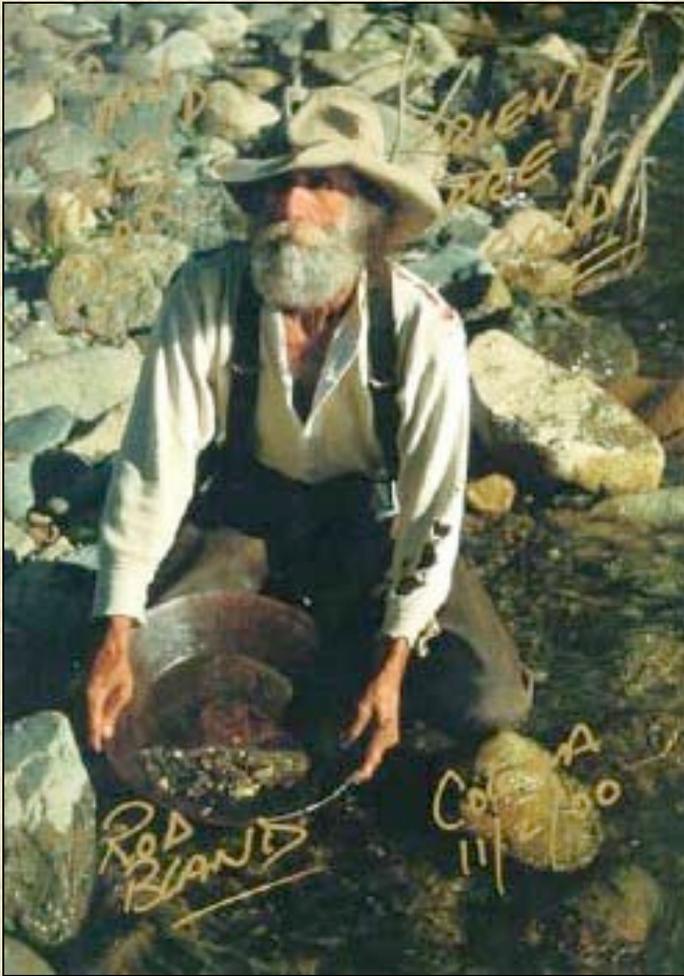
Potential Mining Footprint on Bristol Bay's Wild Salmon and Trout Waters



- Proposed Pebble Mine Site
- Existing Mine Claims
- State Land, open to mineral development
- BLM Land, likely to be opened for mineral development in 2007

Map created by Alaska Center for the Environment 10/04/2006

Historic Mining: 1872 Mining Law



It was passed when Ulysses S. Grant was president, and when mining was done with a pick and shovel.

Modern Mining



Today's mining operations literally move mountains.

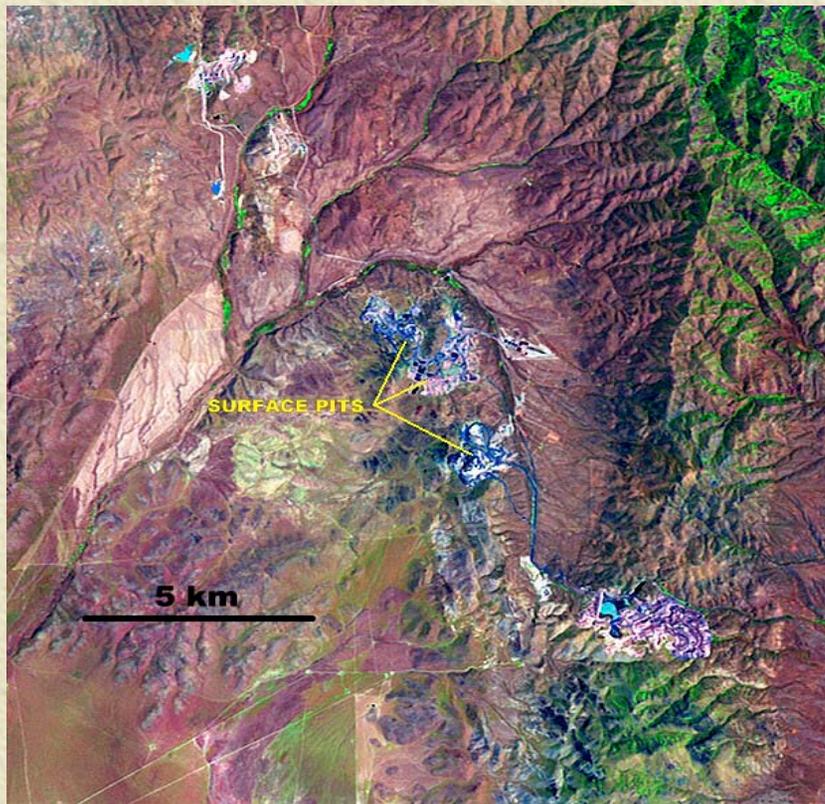
And, often use toxic chemicals such as cyanide and sulfuric acid to extract minerals such as gold and copper.



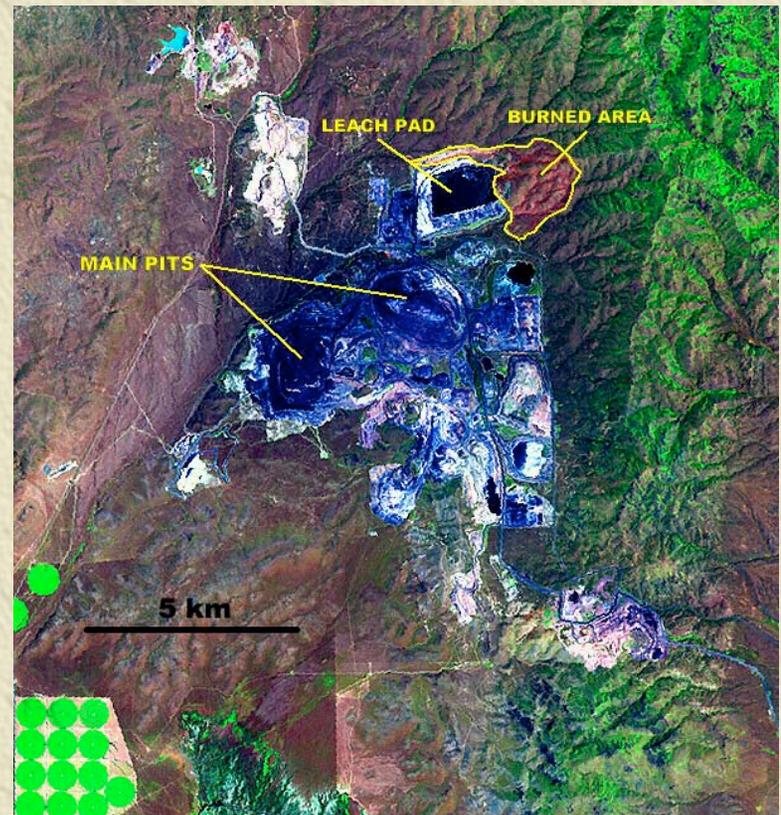
Major mines may have impacts to
land, air, water and wildlife



Scale of today's operations



Satellite Image 1984



Satellite Image 2000

Same old law as a century ago...

“ All valuable mineral deposits in lands belonging to the United States...shall be free and open to exploration and purchase. ”

- 1872 Mining Law

Major Issues with 1872 Mining Law

1. Mining as “highest and best use of land”
2. Inadequate Environmental Protections & Reclamation Criteria
3. It allows mining companies to purchase (patent) public lands.
4. It allows mining companies to remove the minerals with no royalties to U.S.).

Highest and Best Use

✦ Under the federal government's current interpretation, the 1872 Mining Law elevates mining as the highest and best use for public lands.



✦ As such, federal land managers give preference to mining over all other land uses – from wildlife, to fisheries, agriculture, water supplies, and recreation.



No Environmental or Reclamation Standards

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- ✦ The Clean Water Act does not protect groundwater from mining impacts.
 - ✦ Although States have enacted various reclamation laws, there are no consistent national standards.
 - ✦ Reclamation bonding requirements do not include specific cleanup standards on which to calculate the bond.

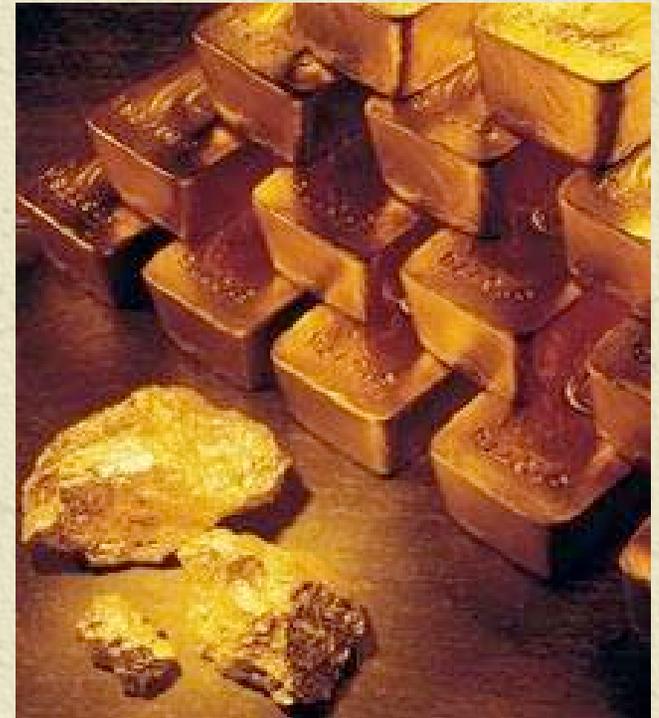
Widespread Impacts

✦ According to EPA, 40% of the headwaters of watersheds in the western United States are polluted by mining



Royalties

- ✦ Mining companies pay No royalties to the U.S. taxpayer for hardrock minerals extracted from federal land.
- ✦ The public gives away an estimated \$1 billion worth of minerals each year!
- ✦ In comparison, the coal, and oil and gas industries each pay a 8 - 12.5% royalty.

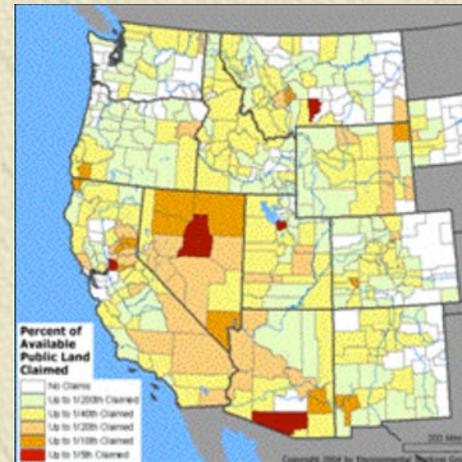


Patenting

- ✦ Patenting provision allows companies and individuals to purchase mining claims.
- ✦ 3.5 million acres of public lands have been privatized since the law was passed.
- ✦ Although a patenting moratorium was passed in 1994; this must be voted on each year. There have been a number of efforts to overturn the moratorium.



**ALREADY
PATENTED:**
estimated 3.7 million
acres of public land
across 12 western
states.



**CURRENT
MINING CLAIMS:**
Mining companies
and individuals hold
claims on 5.6 million
acres of public land
across 65 percent of
all western counties

Mining Reform bill

✦ Representatives Nick Rahall (D-WV) and Rep. Costa (D-CA) introduced a mining law reform bill (H.R. 2262), “Hardrock Mining and Reclamation Act of 2007” which:

- ✦ Better protects special places;
- ✦ Initiates fiscal reforms, abolishes patenting;
- ✦ Establishes environmental protection provisions;
- ✦ Creates an abandoned mine cleanup program.

Increased Land Protection

✦ **Increases acreage of lands off limits to exploration and development, such as...**

- ✦ Areas of Critical Environmental Concern
- ✦ Lands managed as Roadless Areas
- ✦ Wild and Scenic River System or recommended for such;





 **Clarify the discretion to deny mine permits.** The damage caused by the mine cannot unduly degrade the environment, public health, or public safety.

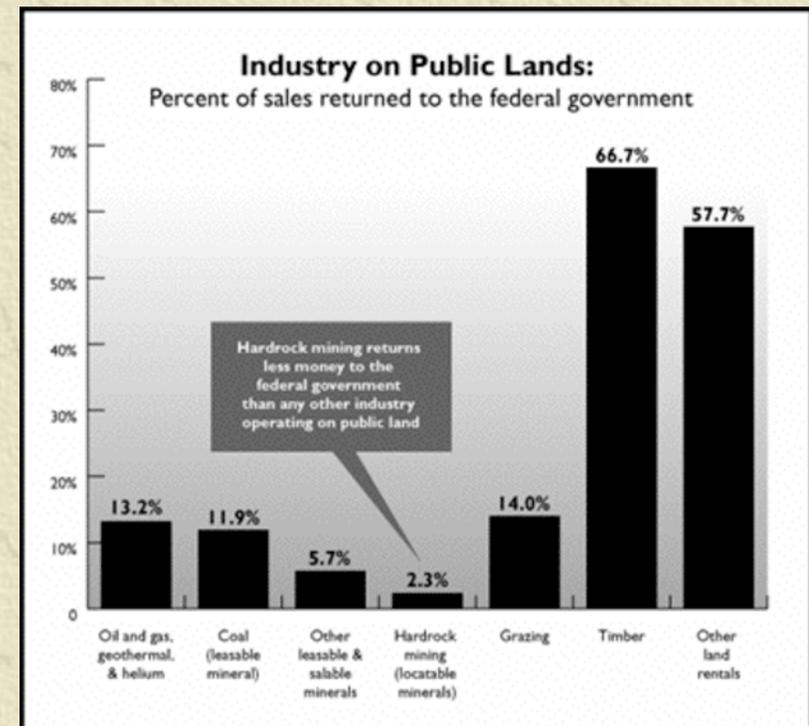
Establish Environmental & Reclamation Standards

Under current federal law, there are no statutory environmental standards written specifically for mining. The Clean Water Act does not protect groundwater from mining pollution, and there is no definition of how to reclaim a mine. H.R. 2262 establishes mining specific standards:

- ◆ **Reclamation** - A reclaimed mine site must be reclaimed so that it can sustain either pre-mining uses, or uses conforming to the applicable land use plan.
- ◆ **Better protect fish and wildlife** – habitat must be restored to pre-mining conditions.
- ◆ **Safeguard surface and ground water** – operations must minimize damage to surface and groundwater resources, and restore pre-mining hydrological conditions.

Establish Fiscal Reforms

- ✦ **End patenting.**
- ✦ **Establish an 8% royalty** – BLM estimates that \$982 million in hardrock minerals were taken from public lands in 2000. Industry paid no royalty to the U.S. for those minerals. 8% of that is \$79 million.



Source: Environmental Working Group analysis of data in BLM's Annual Report, FY2002 (BLM Annual Report 2002).

Create an Abandoned Mine Fund

- ✦ There are more than 500,000 abandoned hardrock mines in the United States that will cost between \$32 and \$72 billion dollars to reclaim. Currently there is no federal funding source for abandoned hardrock mine reclamation.
- ✦ The bill establishes a reclamation fund for abandoned hardrock mines on federal lands.

*Sign near
abandoned mine in
Oregon*



Take Action!

 **Contact Your Representatives and Senators** and ask them to support reform of the 1872 Mining Law. The phone number for the Congressional Switchboard is 202-224-3121.

 www.earthworksaction.org