



EARTHWORKS

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HARDROCK MINING AND RECLAMATION ACT OF 2015

The antiquated General Mining Law of 1872 is one of the last remaining dinosaurs of the old public land giveaways. Although it was enacted 135 years ago when Ulysses S. Grant was President, it still governs hardrock mining on federal lands today. It allows foreign and domestic companies to take valuable minerals from public lands without paying any royalties, and it still allows public land to be purchased at the 1872 price of less than \$5.00 an acre.

The 1872 Mining Law contains no environmental provisions, allowing hardrock mines to wreak havoc on western water supplies, wildlife and landscapes. Mining has polluted 40 percent of the headwaters of Western watersheds, according to the Environmental Protection Agency.

To address these issues and others, Representatives Grijalva (D-AZ), DeFazio (D-OR), and Tonko (D-NY) are introducing legislation to finally reform this antiquated law. The bill:

Protects Special Places from Irresponsible Mining

The federal government currently interprets the 1872 Mining Law as mandating that mining is the highest and best use for public lands. Federal land managers give preference to mining over all other land uses – from recreation to clean water to hunting. The bill would protect sensitive lands and put mining on equal footing with other land uses by:

- **Increasing acreage of lands off limits to exploration and development.** Wilderness study areas, Areas of Critical Environmental Concern, roadless areas, and lands in the Wild and Scenic River System or recommended for such would be off limits to mineral exploration and development. Operations permitted before bill passage would be grandfathered in.
- **Protecting National Parks and National Monuments:** The bill assures that large-scale mining operations do not adversely affect these important natural treasures.
- **Giving land managers the ability to balance mineral activities with other uses of public land:** Land managers need to look at the impacts of mining on the environment and the operator's ability to reclaim the land to a productive use. The damage caused by the mine cannot unduly degrade the environment, public health, or public safety.
- **Giving state, local and tribal government the ability to put lands off limits to mining:** These entities may petition the Secretary of the Interior to put lands that are important for other values, such as drinking water, off limits to mining.

Establishes Environmental Standards

Under current law, there are no statutory environmental standards written specifically for hardrock mining. For example, the Clean Water Act does not protect groundwater from mining pollution, and there is no definition of how to reclaim a mine. The bill would establish mining specific standards, including:

- **Adequate reclamation** – a mine site must be reclaimed to sustain either pre-mining uses, or uses conforming to the applicable land use plan.
- **Fish and wildlife protection** – habitat must be restored to the land use plan applicable to the area.
- **Surface and ground water protection** – operations must minimize damage to surface and groundwater resources, and result in minimal disturbance to the prevailing hydrological balance.
- **Prohibition of perpetual pollution** – after mining ceases, mine operators need to meet water quality standards without permanent treatment.

Cleans Up Abandoned Mines

Because of the outdated 1872 Mining Law, hundreds of thousands of abandoned hardrock mines litter the U.S., mostly in the West. To date, there is still no comprehensive inventory of abandoned hardrock mines, and funds to clean up these sites remain limited. The cost to clean up these abandoned sites will be staggering. According to the Environmental Protection Agency (EPA), the total cleanup costs could reach \$50 billion. The bill would help facilitate the clean up of abandoned mines by:

- **Establish a reclamation fee** – mining companies must pay small per ton fee to clean up abandoned mines.
- **Create and Abandoned Mine Land Fund** – monies collected from the reclamation fee go to pay for old mine cleanup.
- **“Good Samaritan” liability relief** – when a responsible party cannot be found, the bill allows interested parties to

clean up abandoned mine lands without fear of facing liability under the Clean Water Act.

Implements Fiscal Reforms

Current law allows extraction of public minerals without royalty payment to taxpayers. The 1872 Mining Law still allows multinational mining companies to buy (patent) mineral bearing public land for less than \$5.00 per acre – although the annually renewed patenting moratorium has stopped new patents since 1995. The bill addresses fiscal reform as follows:

- **Ends patenting** – Under the 1872 Mining Law, mining interests have patented an area roughly equivalent in size to the state of Connecticut containing mineral values exceeding \$300 billion.
- **Establishes an 8% royalty for new mines and a 4% royalty for existing mines** – Industry currently pays no royalty for hardrock minerals taken from public lands. Coal, oil and natural gas extractors pay between 8% and 12.5%.
- **Statutorily enshrine reclamation bonding** –The reform bill requires reclamation bonds with clear cleanup standards, so that taxpayers will be better protected. Due to inadequate bonds, potential taxpayer cleanup liability for operating mines could exceed \$12 billion.

Requires Enforcement

The bill would require substantially better industry oversight, including:

- **Failure of a mining company to address a violation requires the Secretary to stop operations causing the violation.**
- **Regular inspections are permitted without advance notice.** They must occur at least once per quarter. The public is allowed to request an inspection.
- **Violators can be fined up to \$50,000 per day.**
- **Citizen suits are authorized.**
- **Operators that are currently violating laws cannot receive new permits.** Past law-breakers can only receive a permit if their past violations are not part of a willful pattern of abuses.