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## The Hardrock Mining and Reclamation Act Protecting Taxpayers and the Environment



### 21<sup>st</sup> CENTURY MINING RUSH

Mining claims staked under the outdated rules of the 1872 Mining Law have skyrocketed across the West, including areas around the Grand Canyon, Yellowstone, Yosemite and Canyonlands National Parks. After British mining company Vane Minerals began exploration drilling near the Canyon, downstream water utilities, the Governor of Arizona, the Coalition of National Park Service Retirees and others called for new protections. Citing the deficiencies of the Mining Law, Congressman Raul Grijalva (D-AZ) is spearheading an effort to withdraw about one million acres from the outdated law's claimstaking rules.

In 2007, the Hardrock Mining and Reclamation Act passed the House of Representatives on a vote of 244 to 166. H.R. 2262 amended the 1872 Mining Law, the pioneer-era statute that still governs mining of hardrock minerals on federal public lands. The bill provided new protections for public health and natural resources—safeguarding water supplies and protecting pristine areas—and for taxpayers, who continue to subsidize the mining of hardrock minerals on public lands.

Because the Senate failed to act on reform during the last Congress, Representative Nick Rahall (D-WV), Chairman of the House Natural Resources Committee has reintroduced the House-passed bill. If enacted, this legislation will bring about the long-overdue modernization of federal mining policies.

### Ends the Give-Away of Public Lands and Minerals to the Mining Industry

An estimated \$1 billion of hardrock minerals are taken from public lands each year without compensation to the taxpayers.<sup>1</sup> Those producing oil, gas and coal from public lands pay royalties of 8% and higher. Under the 1872 Mining Law, hardrock minerals – including gold, uranium, copper, and silver – are taken from public lands for free.

<sup>1</sup> Congressional Budget Office, “Budget Options,” February 2007 at <http://www.cbo.gov/ftpdocs/78xx/doc7821/02-23-BudgetOptions.pdf>

**The Hardrock Mining and Reclamation Act sets a royalty on all hardrock minerals taken from public lands after enactment of the law. Future mine operations pay an 8% royalty; existing mines pay 4%.**

**According to the Congressional Budget Office, the federal treasury would have realized approximately \$160 million in new royalty revenues and \$216 million in offsetting receipts through 2012 if the bill had become law.**

The 1872 Mining Law allows claimholders to buy or “patent” public land for as little as \$2.50 per acre, regardless of location, property value, or potential conflict with other public uses. Since 1994, Congress has adopted yearly appropriations language to halt these forced sales, but the patenting provision remains a part of the Law.

**The bill permanently ends the forced sale or “patenting” of public lands.**

## **Protects Special Places**

Under the Mining Law, over 350 million acres of public land are open to mining,<sup>2</sup> including some places nationally recognized as having irreplaceable cultural or environmental values. Modern mining operations, which can cover thousands of acres, use significant amounts of toxic chemicals, leave millions of tons of waste, and permanently disrupt resources and habitat, are often incompatible with these values, but the Mining Law treats mining as the “highest and best use” of land with valuable minerals.

**The Rahall bill places national forest roadless areas, BLM Wilderness Study Areas, and other sensitive lands “off limits” to new mining claims.**

**The bill allows state, local and tribal governments to petition to have specific areas withdrawn from new claimstaking.**

**The Rahall bill protects National Parks and Monuments by making it clear that mining proposals that will impair those resources cannot be approved.**



### **SELL LOW, BUY HIGH?**

Land within the Lake Mead National Recreation Area now occupied by the Hacienda Hotel and Casino once belonged to the American public. The property was purchased by a claimholder under the 1872 Mining Law's "patenting" provisions. The National Park Service has been trying to buy back the land. In 2004 the buy-back cost was estimated at \$20 million.

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<sup>2</sup> National Research Council, Hardrock Mining on Federal Lands, National Academy Press, 1999.



### **PERPETUAL POLLUTION**

The Gilt Edge Mine is a prime example of hardrock mining's potential for "perpetual pollution." Opened in 1986, this gold mine—with thousands of gallons of acidic, metal-laden waters and tons of acid-generating wastes—was abandoned in 1999. A recently approved Superfund reclamation plan for the mine could cost federal taxpayers \$53 million, far in excess of the mining company's posted bond. Treatment of acidic water, at a cost of \$2 million per year, is expected to last forever, and those ongoing costs will likely fall to the state.

## **Sets Environmental Standards and Financial Assurance Requirements**

Hardrock mining has a poor environmental track record, and the Environmental Protection Agency (EPA) estimates that hardrock mining has degraded approximately 40% of western headwaters.<sup>3</sup> In 2004, EPA's Inspector General found that many of the most serious mine pollution cases will involve potentially costly water treatment for 40 years or longer – in some cases continuing in perpetuity.<sup>4</sup>

While coal mining on federal land is governed by comprehensive federal legislation, the Mining Law has no environmental management provisions. Other environmental laws, such as the Clean Water Act, have not proven adequate in addressing the unique problems of mining and the weight of the Mining Law's antiquated biases in favor of mining. In many instances, hardrock mine operators have failed to adequately reclaim mined areas, and mine owners have defaulted on environmental cleanup responsibilities multiple times.<sup>5</sup>

**The mining law reform bill establishes a comprehensive framework for review and issuance of mine permits, clearly prohibiting mining operations which will cause irreparable harm to important resources.**

**It requires mine operations to achieve compliance with water quality standards within 10 years of mine closure.**

**The bill requires industry to post adequate financial assurances for land reclamation and water restoration.**

**As in the federal law that governs coal mining—the bill makes operators with outstanding violations ineligible for new mining permits.**

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<sup>3</sup> US Environmental Protection Agency, "Liquid Assets: America's water resources at a turning point," 2000.

<sup>4</sup> US Environmental Protection Agency, Office of Inspector General, "Evaluation Report: Nationwide Identification of Hardrock Mining Sites," March 31, 2004, Report No. 2004-P-00005.

<sup>5</sup> Government Accountability Office, "Environmental Liabilities: Hardrock Mining Cleanup Obligations," Statement for the Record by John B. Stephenson, Director, Natural Resources and Environment, before the Senate Committee on Environment and Public Works, June 14, 2006, GAO-06-884T.

## Accelerates Cleanup of Abandoned Mines

Abandoned hardrock mines are a major source of pollution and a public safety issue in the West. Although no comprehensive inventory exists, EPA estimates that there may be half a million abandoned hardrock mines, including as many as 35,000 on Forest Service lands and 2,500 within the National Park System.<sup>6</sup>

Cost estimates for cleanup run to \$50 billion or more.<sup>7</sup> Cleanup at the current rate of spending will address no more than 8 to 20 percent of problem over the next 30 years, according to EPA.

**The bill uses two-thirds of the royalty earnings for an Abandoned Mine Reclamation Fund.**

**One-third of the funds go into a Community Impact Assistance Account to assist states, localities, and Indian tribes that have been adversely impacted by mining.**



### **“OMINOUS” HAZARDS**

Abandoned mine sites pose a serious threat to public safety, warned the Department of Interior Inspector General (IG) in 2008. The IG found health-threatening contaminants, including arsenic, lead, and mercury, “easily accessible to visitors and local residents,” and abandoned mines that have caused injuries and fatalities of children and adults. “The potential for more deaths and injuries is ominous,” current funding “inadequate” and existing cleanup programs “ineffective,” said the IG. The IG report is available online at <http://www.doioig.gov/upload/2008-G-00241.pdf>.

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<sup>6</sup> US EPA, Office of Solid Waste and Emergency Response, *Cleaning Up the Nation's Waste Sites: Markets and Technology Trends*, September 2004.

<sup>7</sup> US EPA IG Evaluation Report, *op cit*, and US EPA, OSWER, *Cleaning Up, op cit*.