



EARTHWORKS

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**Statement for the Record
U.S. House Subcommittee on Energy and Mineral Resources
Oversight Hearing on
Abandoned Mined Lands: Innovative Solutions for Restoring the Environment, Improving
Safety and Creating Jobs
July 14th, 2011**

Thank you Chairman Lamborn, Ranking Member Holt and Members of the Subcommittee for the opportunity to speak to you today about abandoned hardrock mines. Thank you for making time on the Subcommittee's schedule to explore this important issue. Earthworks has been working for over two decades to develop and promote initiatives to clean up old mine sites and to address the pollution problems associated with them, particularly in the West.

Earthworks is a non-profit organization dedicated to protecting communities and the environment from the destructive impacts of mineral and energy development. We work closely with a broad coalition of local governments, Native Americans, citizen groups and other conservation organizations to improve the policies governing hardrock mining and oil and gas development.

In the early 1990's, Earthworks assessed the scope of the abandoned mine problem and estimated that there are over 550,000 abandoned hardrock mines in 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 the Environmental Protection Agency (EPA), the total clean-up costs will be \$50 billion.

Western communities face significant burdens associated with these old mines. According to the Environmental Protection Agency, at least 40 percent of the stream reaches in the headwaters of western watersheds are polluted from abandoned mines. Many of these abandoned mine sites have significant acid mine drainage problems, which can persist for thousands of years if left untreated. Downstream communities pay the costs to clean up water polluted from abandoned mines for household use. Polluted waters affect recreation, agriculture, and impact property values. Fish and wildlife resources are also negatively impacted.

Abandoned uranium mines pose the added threat of radiation exposure to the list of concerns. Surface and underground uranium mining produces waste material, which contain naturally occurring radioactive materials in addition to the heavy metals found in most hardrock mine waste. When these toxic materials become exposed to the environment through mining activities, they can be mobilized in air and water. Continued exposure to radioactive materials such as radium and thorium cause serious health problems. The EPA estimates there are at least 4,000 abandoned uranium mines in 14 western states, with most situated in Colorado, Utah, New Mexico, Arizona, and Wyoming.

The single largest obstacle to the restoration of abandoned hardrock mines is the lack of funding. In states like Montana—where revenues exist from a state severance tax and the state is authorized to restore abandoned mines with revenues from the coal abandoned mine land fund—there is a small stream of revenue (on average about \$3.5 million) available to remediate only a few small sites a year, but it is not enough to address the serious problems posed by the 6,000 inventoried abandoned mines across the state, and the estimated 3,700 miles of rivers and streams polluted by harmful metals, primarily from abandoned mines. In other states, such as California and New Mexico, there are few sources of funds available to correct this pervasive problem in old mining districts. As a result, the number of abandoned mine lands that cause safety or environmental hazards far outweigh the funding available to restore them.

The antiquated 1872 Mining Law currently allows mining companies to take hardrock minerals from public lands for free, with no royalty paid to the taxpayer. Unlike the coal mining industry, which is required by the Surface Mining Control and Reclamation Act (SMCRA) to pay into an Abandoned Mine Land Fund via a reclamation fee, the hardrock mining industry pays no such fee. A steady-stream of long-term funding for hardrock abandoned mine lands clean up, similar to the SMCRA program, is essential to dealing with the scope of the problems western states face from abandoned mines.

In addition to a lack of funding for abandoned hardrock mine clean up, Earthworks also recognizes the concern that has been expressed about the liability under existing environmental laws that may occur when a state, tribal, or local government or citizens groups attempt to restore water quality affected by abandoned mines. We support a narrow exemption to the federal Clean Water Act that would allow “Good Samaritans” to clean up abandoned mines without incurring Clean Water Act liability.

Any “Good Samaritan” legislation should contain an objective standard for determining if a permit is issued and the goal of any water restoration effort should be to achieve applicable

Clean Water Act standards. However, we recognize that economic and technological constraints exist, and in some cases water quality may be improved but the overall standard may not be achieved.

Earthworks has supported several legislative proposals that have been introduced in previous Congresses in an attempt to resolve this question about liability under the Clean Water Act. There is a narrow point of apparent agreement among some of the conservation organizations involved with abandoned mine clean up, the western States, and some industry representatives that a waiver of Clean Water Act liability is warranted to correct the damage that is occurring from the polluted mine sites. Earthworks does not support waiving other environmental laws for the purposes of fostering “Good Samaritan” clean ups of abandoned mine sites. There is not a liability problem with most other environmental laws, so waiving them in order to eliminate liability for abandoned mines clean up would be inappropriate. Where liability does exist under the Comprehensive Environmental Response, Compensation and Liability Act, also known as CERCLA and commonly known as Superfund, there are existing mechanisms available through the Environmental Protection Agency to facilitate clean up, such as Administrative Orders on Consent.

According to a State of Montana study of abandoned mines, each million dollars spent will create 65 jobs. Many of these jobs are good, high paying jobs that rural communities need in these tough economic times. In addition to job creation, restoration activity would also take degraded lands and put them into productive use. This will benefit local communities and the private landowners who have abandoned mines on their property, and help communities who currently must treat their water supplies for heavy metals and other pollution from abandoned mines.

As part of its FY2012 budget, the Obama administration has proposed a 1% reclamation fee on all hardrock mining, similar to the fee paid by coal mines. This fee would generate \$200 million per year to fund abandoned mine restoration, creating an estimated 13,000 jobs per year for those in the mining industry. In addition to a reclamation fee, the administration proposed a modest royalty to be paid to the owners of minerals taken from public lands – the taxpayer.

Congressman Heinrich, a member of this subcommittee, has also introduced legislation that would create jobs and begin the arduous task of cleaning up the nearly 4,000 abandoned uranium mine sites, of which a disproportionate number are located on Indian lands. For example, from 1944 to 1986, nearly four million tons of uranium ore were extracted from Navajo Nation mines and over 500 abandoned uranium mines still scar the Navajo Nation. HR 1452, the Uranium Resources Stewardship Act, would impose a 12.5 percent royalty on the uranium mining industry, and move it out of the 1872 Mining Law and into the more modern Mineral Leasing Act. The money generated from the royalty charged on uranium mining on public lands would go toward the much-needed clean up of uranium mill tailings and abandoned uranium mines on federal lands.

Creating a steady-stream of funding for addressing the full problem of cleaning up of over 550,000 abandoned mines via a royalty and a reclamation fee should go hand in hand with a narrow Clean Water Act liability waiver for “Good Samaritan” clean up of abandoned mines.

Without a consistent funding source, state, local and tribal governments and citizen groups will be able to move only a small number of projects forward. Tackling this large-scale problem requires a large-scale solution – a solution that will create jobs and restore western waters.

Thank you for the opportunity to present the views of Earthworks on this important topic. We appreciate the Committee's consideration of abandoned hardrock mines and the real problems they pose to air, water and public safety in western states. We look forward to working further with the Committee on this issue.