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**Statement of Lauren Pagel  
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EARTHWORKS  
Energy and Mineral Resources Subcommittee  
Oversight Hearing on "Improving the Competitiveness of America's Mining Industry"  
Thursday, April 28, 2005**

EARTHWORKS is a non-profit, non-partisan environmental organization dedicated to protecting communities and the environment from the adverse impacts of mineral development. Our national office, based in Washington D.C., provides support to citizens across the country and around the world. Our field offices in Nevada and Montana assist communities throughout the western United States concerned about the impact of mineral development in their backyards.

EARTHWORKS supports responsible mining policies and practices and recognizes that some mining companies seek to operate in a manner that protects our environment.

**Outdated Mining Policy: Time For Reform**

The rhetoric of much of the hardrock mining industry does not match reality. Under the 1872 Mining Law, the hardrock mining industry has more access to public lands than any other extractive industry, and less regulation. Claims provide the industry with this access, and the mining law contains no operating standards or environmental provisions to regulate mining operations. Mining companies are given preferential treatment when they mine public land under the 1872 Mining Law - trumping other uses of the land like hunting, fishing, hiking, camping and conservation, and even other commercial uses such as logging and oil drilling.

The mining industry in the United States has seen record production, and record profits, over the past 10 years. Yes, industry jobs have been steadily decreasing. Newmont's profits alone rose from \$1.5 billion to over \$4.5 billion. In 1991, the gold mining industry mined 264 metric tons of gold and employed over 15,000 people, according to USGS. In 2003, the industry mined a similar amount, 277 metric tons, but employed only 7300 workers.

The mining industry receives a litany of benefits and exemptions from the U.S. government and U.S. taxpayer. The depletion allowance allows mining companies to reduce their taxable gross profits by a fixed percentage each year. The industry is also allowed to take precious minerals like gold and copper from public lands for free – with no royalty paid to the taxpayer. The hardrock industry has no specific environmental standards applied to its operations. It is exempt from most of the country's hazardous waste rules.



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This lack of regulation has led to widespread water pollution and landscape destruction in the western United States. In addition to a lack of regulation, the mining law offers no recourse for western communities to decide whether or not mining occurs in their backyard. It also offers no protection for special places, such as Wilderness areas, Wild and Scenic Rivers, critical drinking water areas or lands considered sacred by Native Americans -- lands where mining should never occur.

Reform of the 133-year old mining law is long overdue. In order to fully protect the water resources of the West, the mining industry must be brought into the 21<sup>st</sup> century with a law that recognizes the value of mining but does not value mining to the exclusion of clean water and healthy communities. Real and meaningful reform of the 1872 Mining Law will recognize that the West's economy and its demographics are changing, and that reckless mining in inappropriate places is not good for the economy, let alone the environment. Real reform can create responsible mining policies that eliminate government subsidies to mine on public lands, require mining companies meet rigorous environmental protection standards and recognize that on some public lands there are resources, and other uses, that may be more valuable than mining, including the protection of environmentally significant areas.

In order to prevent irresponsible mining from destroying western waters and landscapes, a thorough, comprehensive review of mining projects is also needed. The National Environmental Policy Act (NEPA) was created "to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation." The NEPA process today does not impede, it informs. It gives the public a chance to comment on issues that could potentially affect their health and their environment. NEPA is about public participation, not stopping mine proposals. Not one mine proposal has ever been denied using NEPA.

The U.S. mining industry should strive to move forward into an era where mining does not trump all other land uses, where the mining-specific environmental regulations are followed, where mining loopholes to environmental rules disappear, and where mining companies step up to the plate to pay for cleanup of a long, significant legacy of pollution. A strong National Environmental Policy act, along with reform of the 1872 Mining Law, will help achieve this goal.

Successful mining law reform will balance the interests of mining companies with those of taxpayers, citizens who seek to protect land and water resources, and future generations who will benefit from well managed public lands.



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## **Hardrock Mining: A Legacy of Pollution**

Hardrock mining has left a legacy of polluted landscapes in the United States. Approximately 500,000 abandoned and polluting mines litter the American landscape. Many of these mines poison ground and surface waters with pollution that is more acidic than battery acid or that contains toxic heavy metals, such as arsenic and lead. This pollution has killed fish and wildlife and has contaminated drinking water. Overall, mining has polluted a full forty percent of the headwaters of Western watersheds, according to the U.S. Environmental Protection Agency.

With no funds dedicated to cleaning up abandoned mines, many communities must live with these polluting mines and can do nothing about it. Other abandoned mines have such serious pollution issues, that they threaten the health and safety of the surrounding communities and must be made Superfund sites by the Environmental Protection Agency. The Silver Valley area of Idaho is an example of an abandoned mine Superfund site. Heavy metals, including high concentrations of lead, pose an ongoing health threat-especially to children and women of child-bearing age-in the Spokane River-Lake Coeur d'Alene watershed of northern Idaho and eastern Washington.

## **Mining Today: Water and Communities Still Threatened**

Modern hardrock mines create further environmental problems. Because precious metals exist in microscopic quantities in ore, modern mines dig pits that are thousands of feet deep and across in order to dig up thousands of tons of ore. These mining operations then leach the metals out of the ore using chemicals like cyanide and sulfuric acid. Afterwards, the leach pads and additional waste rock are left as enormous waste piles, laden with toxic chemicals and heavy metals.

Current mining operations and recently defunct mines are on course to leave an even more destructive legacy than abandoned operations. The Grouse Creek mine, located adjacent to the largest wilderness complex in the lower 48 states, is an example of why an even more stringent permitting process and operating standards are needed to protect western water resources. Grouse Creek was heralded as a "state of the art" mine when it began operations in 1994. On August 21, 1995, five days after the mine's dedication, and just as adult salmon were migrating into the area to spawn, a pipe broke, discharging cyanide solution in the Jordan Creek (a stream federal designated as critical salmon habitat) for approximately 40 minutes. Cyanide was soon detected downstream at concentrations exceeding fish toxicity levels. All together, from May 1994 to June 30, 1996, the EPA cited the mine for 258 violations of its discharge permit. Cyanide and mercury emissions exceeded limits by more than five times the allowed levels in one 13-month period. Just three years after it opened, the mine shut its doors -- producing no profits, leaving behind an environmental disaster, and shouldering taxpayers with a \$53 million liability.



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A rigorous review process, improved environmental standards and solid financial assurance requirements are needed to protect western communities and water resources from mines like Grouse Creek. In order to be effective and mitigate pollution of water resources, the review processes must be coupled with mining-specific operating standards. The Environmental Impact Statement of the Phoenix Project in Nevada predicts 20,000 years of acid mine drainage. This mine has been permitted even though it will leave a legacy of perpetual pollution for future generations. The permitting process should be strengthened to prevent this type of perpetual pollution, and operating standards should be created to mitigate both long and short term water pollution issues.

Permitting of mines should not be a “race to the bottom”, lowering our standards to attract more investment. The mining industry in this country should strive to mine with the most up-to-date technology, using the best science and providing western communities with the most stringent environmental protections. To weaken the permitting process would be a move backwards, turning the West into a resource extraction colony of the global mining industry. Instead of attempting to turn the clock back in this way, the mining industry should endeavor to move towards pollution mitigation and support of multiple-use policies, including the protection of special places.

### **Healthy Communities, Environmental Protection, and a Healthy Mining Industry**

Real and meaningful reform of the 1872 Mining Law will lead to a more responsible, stronger domestic mining industry. This type of reform is a win for the environment, for clean water, for communities, for taxpayers, for the economy, and for the mining industry. Reform should include environmental standards for mines, a permanent end to patenting, a fair return to the American taxpayer with royalties on minerals taken from federal lands, protection for sensitive and pristine ecological areas, industry contributions to an abandoned mine trust fund, and the end of mining as the highest and best use of public land.

It is time to put an end to the subsidies and favors that mining companies receive on public lands. Instead, mining in the United States should be conducted under the strictest of environmental standards and should protect those areas of this country where a mine should never be. These special places hold more value as pristine areas for recreation, than the minerals contained underneath them.

A mining industry that is rewarded for its environmental performance, and penalized for its environmental mistakes, will be a healthier industry, both in the United States and around the world. It is in the interest of this subcommittee to create incentives for better environmental performance on our public lands. Improved environmental performance will increase the competitiveness, marketability, and performance of U.S. mining companies.



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The way we manage and use our public lands today will have an impact on the landscape and opportunities we pass on to future generations. The federal government has a duty to manage those lands in a manner that is in the public interest, not in the short-term interest of a particular industry. A stringent permitting process, strict operating standards and the ability to protect special places from mining operations are needed to ensure that the mining industry in this country operates in a way that protects the environment.