



EARTHWORKS

EARTHWORKS FACTSHEET

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO HR 2262, THE HARDROCK MINING AND RECLAMATION ACT OF 2007

The antiquated 1872 Mining Law 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, like gold, copper and uranium 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. The law, enacted to encourage development of the West, still gives metal mining on many public lands special priority over all other land uses, including recreation, ranching, hunting, fishing and conservation.

On Thursday, October 18, the Committee is scheduled to markup H.R. 2262, The Hardrock Mining and Reclamation Act of 2007, introduced by Committee Chairman Rahall and Subcommittee Chairman Costa. The bill, as originally introduced, provides comprehensive reform needed to protect America's taxpayers and the public.

An Amendment in the Nature of the Substitute (ANS) to HR 2262 issued by the Committee this week retains and even improves some of the bill's key protections. However, it also includes changes that could weaken provisions from the original bill which address important issues in need of reform. Several amendments will be introduced to clarify and correct these oversights. Be wary of amendments to weaken key provisions of the bill that protect taxpayers, communities and the environment. Mining reform will not be real reform unless it includes the key protections listed below.

Important Amendments to the Substitute to HR 2262

There are 3 key issues that must be dealt with in the ANS in order to achieve comprehensive and meaningful reform of the 1872 Mining Law:

- **Allow Tribal Governments to Protect Important Cultural Resources on Public Lands:** The ANS to HR 2262 includes a new provision (Section 202) giving local governments the ability to petition the Secretary of the Interior to withdraw specific tracts of federal land to protect watersheds, wildlife or scenic vistas important to local economies. This section is a very important provision that should be retained and extended to give tribal governments the ability to protect areas of cultural and religious significance from mining as well. An amendment will be offered in committee by Congressman Grijalva (D-AZ) to give tribal governments this right.
- **Require A Fair Return to the Taxpayer for Current Mineral Extraction:** The ANS to HR 2262 exempts all currently producing mines from paying a royalty. As a result, millions of taxpayer dollars will be lost each year, a source of funding for mine cleanup will be substantially limited and the industry can continue to take public mineral resources from federal lands for free. The royalty section must be amended so that current mining companies pay their fair share. One or more amendments may be offered in committee to address this important issue and make sure current operators pay their fair share on the minerals they take from public lands.



EARTHWORKS

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO HR 2262, THE HARDROCK MINING AND RECLAMATION ACT OF 2007

- **Limit Rights Held by Mining Claim Holders:** Section 104 of the ANS to HR 2262 gives the holders of mining claims the right to “use and occupy” public land as long as they pay their claim maintenance fee. This section as written could preempt other land uses like hunting, fishing and recreation. It is important to clarify the limits to the rights received by a claim holder for payment of the claim maintenance fee. An amendment will be offered by Congressman Inslee (D-WA) to clarify that payment of the claim maintenance fee only guarantees the rights of claim holders to explore and prospect on federal land and that mining claim holders are not granted additional rights that trump other valuable uses of public lands.

With These Changes, the Committee Substitute is a Win for Communities And the Environment. We Urge You to Support the Bill as Amended.

Highlights of the Committee Substitute

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 ANS to HR 2262 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 protection would be off limits to new mining claims. Valid claims established before the bill’s passage would be grandfathered in.
- **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 public lands or resources.

Recommends Strong Environmental Regulations

Under current law, there are no statutory environmental standards written specifically for hardrock mining. There are also gaps in environmental regulation of mining impacts. 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 ANS to HR 2262 requires the Secretary to establish mining specific regulations, including:

- **Prohibition of perpetual pollution** – after mining ceases, mine operators need to meet water quality standards within 10 years without water treatment.
- **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 pre-mining conditions.
- **Surface and ground water protection** – operations must minimize the formation of acid mine drainage and prevent damage to the hydrologic balance.



EARTHWORKS

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO HR 2262, THE HARDROCK MINING AND RECLAMATION ACT OF 2007

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 ANS to HR 2262 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 \$245 billion.
- **Establishes an 8% royalty on new mining operations** – The Congressional Budget Office estimates that \$1 billion in hardrock minerals were taken from public lands in 2006. Industry paid no royalty for those minerals. Coal, oil and natural gas extractors pay between 8% and 12.5%.
- **Statutorily enshrines 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.

Creates Funds to Clean Up Abandoned Mines and Assist Impacted Communities

There are more than 500,000 abandoned hardrock mines in the United States that will cost an estimated \$50 billion to reclaim. Currently there is no dedicated federal funding source for abandoned hardrock mine reclamation. The ANS to HR 2262 would:

- **Establish a reclamation fund to clean up abandoned hardrock mines on federal lands.**
- **Allocate 2/3 of all revenues generated from the mining industry to be used in this fund.**

Communities throughout the West have been adversely impacted by the boom and bust cycle of mining. HR 2262 would:

- **Create a Locatable Minerals Community Impact Assistance Fund** to provide assistance to communities that are socially or economically impacted by mineral activities.
- **Allocate one third of all revenues generated by the mining industry to this fund.**

Requires Enforcement

The ANS to HR 2262 would require substantially better industry oversight, including:

- **Immediate enforcement action is required by the land management if a company is not meeting its obligations under this new law.**
- **Regular inspections are required on a yearly basis.** The public is allowed to request an inspection.
- **Violators can be fined up to \$50,000 per day as deterrence for violating the law.**
- **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 have been correct and are not part of a willful pattern of abuses.