



EARTHWORKS

EARTHWORKS FACTSHEET

# HARDROCK MINING AND RECLAMATION ACT OF 2009

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, House Natural Resources Committee Chairman Nick Rahall (D-WV) and Subcommittee on Energy and Mineral Resources Chairman Costa (D-CA) introduced the Hardrock Mining and Reclamation Act of 2009, HR 699. The bill is the same bill that passed the House of Representatives on November 1, 2007. 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. HR 699 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. HR 699 establishes 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.



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- **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.

## 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. HR 699 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 for new mines and a 4% royalty for existing mines** – BLM estimates that \$982 million in hardrock minerals were taken from public lands in 2000. Industry paid no royalty for those minerals. 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.

## 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 between \$32 and \$72 billion dollars to reclaim. Currently there is no dedicated federal funding source for abandoned hardrock mine reclamation. HR 699 would:

- **Establish a reclamation fund to clean up abandoned hardrock mines on federal lands.**
- **Allocate two thirds of all royalty revenues to this fund.** Fifty percent of the royalties in this fund will go back to the state where the royalty was generated.

Communities throughout the West have been adversely impacted by the boom and bust cycle of mining. HR 699 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 royalty revenues to this fund.**

## Requires Enforcement

HR 699 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.