



MINERAL
POLICY
CENTER

Mineral Policy Center Position Statement:

Millsite Claims

*Protecting
Communities
and the
Environment*

The 1872 Mining Law is an antiquated relic of a law that does not adequately protect taxpayers or the environment from the impacts associated with mining, especially modern mining.

However, within the 1872 Mining Law, there is a single provision that effectively protects the public interest. Known as the “millsite” provision, it limits the amount of public land available for mining companies to use for dumping waste, processing ore with toxic chemicals, or doing any other activity that is “ancillary” to mining.

The language specifically says that, for every one 20-acre “mining claim” - where minerals area actually taken from the ground, a company is allowed one five-acre “millsite claim,” which can be used to dump waste and process ore.

Modern mines, which extract precious metals from immense quantities of ore and wasterock, routinely use much more public land than that for the dumping of their waste and other such activities and for years had been getting away with violating the millsite limitation.

That’s why, in 1997, the former Interior Solicitor John Lesly issued a legal opinion stating that the Interior Department had to enforce the “millsite” limitation in order to comply with the plain language of the law. Solicitor Lesly also noted that, if the limits on public land did not leave enough land for the huge mines to conduct their activities, there are at least two legal avenues available. First, a mining company may undertake a land exchange with the federal government. Second, the mine could apply for a special use permit to allow them to use excess millsite land under certain conditions.

Nevertheless, mining companies are complaining, because they want access to as much land as they need for processing and dumping without having to jump over any hurdles or take any aspect of the public interest into account.

But the remedy is clear, just as the law is clear. There are many aspects of the 1872 Mining Law that do not meet the current needs of communities, clean water resources, taxpayers, wildlife habitat and other natural resource issues. If the current legal requirements limiting “millsite” use do not meet the mining companies’ operating needs, then these companies should discuss how to bring the entire mining law into the 21st century. The 1872 Mining Law is outdated and it doesn’t work. It must be reformed in a way that protects taxpayers and the environment. It should not be selectively enforced or altered in a way that only benefits industry.

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