


Canyon Echo

The 1872 Mining Law: History and Impact

By Lynn DeMuth 

In 1872, the West was seen as an undeveloped frontier ripe for settlement and resource extraction. People in the East and South were ready to pack up, move west, and get rich.

The General Mining Law of 1872 was passed to encourage this settlement of the West. It allowed anyone to stake a claim on public domain land for hardrock minerals such as gold, silver, and uranium and extract the ore—all without having to pay any royalties to the federal government. Companies could then also buy the land for as little as \$2.50 an acre through a process known as patenting.

In 2007, the law has not changed (although a moratorium on land patents was instated 13 years ago). Today, foreign and domestic investors still can stake a claim on public domain land and extract royalty-free ore. In 1872, miners used pick-axes and hand shovels. Today, the equipment used can topple mountains.

The 1872 Mining Law contains no provisions for environmental protection. The U.S. Environmental Protection Agency estimates that hardrock mining has polluted 40% of the headwaters of Western watersheds with mine runoff. Strip mines and open pit mines have destroyed thousands of acres of habitat.

Thousands of abandoned mine sites exist in the West. According to EARTHWORKS estimates (<http://www.earthworksaction.org/1872.cfm>), it will cost taxpayers between \$32 and \$72 billion to clean up these mines. Taxpayers also are potentially liable for billions more in cleanup costs at currently operating mines. An article in *High Country News* (May 17, 2007) reports that since the law's enactment, the U.S. government has sold more than 3.4 million acres of federal land



TOP LEFT: BHP mine threatening Pinto Creek. *Photo by Scott Mittelsteadt.* TOP RIGHT: Aerial view of Silver Bell Mine. *Photo by Scott Sprague.* BOTTOM LEFT: Endangered Arizona hedgehog cactus, threatened by proposed mine in Oak Flat Campground. *Photo by Donna Goodale.* BOTTOM RIGHT: Morenci Mine, the largest open-pit mine in North America. *Photo by Nancy Freeman.*

to mining interests. By some estimates, miners have extracted at least \$245 billion in metals without returning anything to taxpayers.

Efforts at reforming the law have been unsuccessful in the past. The U.S. government sees a mining claim as an inviolable right. Federal land management

agencies have consistently argued that they cannot deny hardrock mining proposals because of the 1872 Mining Law—federal land managers insist that, under the law, hardrock mining is the highest and best use of public lands.

The good news is that HR 2262 has been introduced by House Natural

Resources Committee Chair Nick Rahall (D-WV). The bill would, among other things, require a royalty on extracted ore; identify federal lands that would not be open to mining; establish environmental standards for initial protection, restoration, and reclamation; establish a reclamation fund; set forth inspection and enforcement requirements; and authorize citizen suits to enforce compliance.

Unfortunately, HR 2262 currently is languishing in committee, and its prospects may be limited in the near term. However, it is the first mining reform that has appeared in Congress for some time.

Lynn is the Chapter's Political Committee Chair.

WHAT YOU CAN DO

Now is the time to make your voice heard. Contact your U.S. Representative and Senators. Tell them that reform of the 1872 Mining Law is long overdue and that its impacts are not acceptable in the fragile landscapes of the West. To find contact info for your members of Congress, visit <http://www.vote-smart.org>.

