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Testimony before the U.S. House Subcommittee on Energy and Mineral Resources  
on HR 785, to amend the Surface Mining Control and Reclamation Act of 1977 to  
clarify that uncertified States and Indian tribes have the authority to use certain  
payments for certain noncoal reclamation projects

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Thank you Chairman Lamborn, Ranking Member Holt and members of the Subcommittee for the opportunity to speak to you today about HR 785. Earthworks has been working for over two decades to develop and promote initiatives to clean up abandoned hardrock mine sites and to address the pollution problems associated with them, particularly in the West.

Earthworks is a non-profit organization dedicated to protecting communities and the environment from the destructive impacts of mineral and energy development. We work closely with a broad coalition of local governments, Native Americans, citizen groups and other conservation organizations to improve the policies governing hardrock mining and oil and gas development.

### **The Hardrock Abandoned Mine Problem**

In the early 1990's, Earthworks assessed the scope of the hardrock abandoned mine problem and found that there are approximately 550,000 abandoned hardrock mines in the U.S., mostly in the West. To date, there is still no comprehensive inventory of abandoned hardrock mines, and funds to clean up these sites remain limited. The cost to clean up these abandoned sites will be staggering. According the Environmental Protection Agency (EPA), the total clean-up costs could exceed \$50 billion.

Western communities face significant burdens associated with these abandoned mines. According to the Environmental Protection Agency, at least 40 percent of the stream reaches in the headwaters of western watersheds are polluted from mining activity, most of that pollution coming from abandoned mines. Many of these sites have significant acid mine drainage problems, which can persist for thousands of years if left untreated. Downstream communities pay the costs to clean up water polluted from abandoned mines for household use. Polluted waters affect recreation, and fish and wildlife are also negatively impacted.

Abandoned uranium mines pose the added threat of radiation exposure to the list of concerns. Surface and underground uranium mining produces waste material, which contain naturally occurring radioactive materials in addition to the heavy

metals found in most hardrock mine waste. When these toxic materials become exposed to the environment through mining activities, they can be mobilized in air and water. Continued exposure to radioactive materials such as radium and thorium cause serious health problems. The EPA estimates there are at least 4,000 abandoned uranium mines in 14 western states, with most situated in Colorado, Utah, New Mexico, Arizona, and Wyoming.

The single largest obstacle to the restoration of abandoned hardrock mines is the lack of funding. In states like Montana where revenues exist from a state severance tax and the state is authorized to restore abandoned mines with revenues from the coal abandoned mine land fund there is a small stream of revenue (on average about \$3.5 million) available to remediate only a few small sites a year. That is not enough to address the serious problems posed by the 6,000 inventoried abandoned mines across the state, and the estimated 3,700 miles of rivers and streams polluted by harmful metals, primarily from abandoned mines. Montana is one of the best-case scenarios in terms of AML reclamation in the country right now, which means that most states are in far worse shape.

In other states, such as California and New Mexico, there are few sources of funds available to correct this pervasive problem in old mining districts. As a result, the number of abandoned mine lands that cause safety or environmental hazards far outweigh the funding available to restore them.

### **Inadequate, Temporary Solution**

The antiquated 1872 Mining Law currently allows mining companies to take hardrock minerals from public lands for free, with no royalty paid to the taxpayer.

Unlike the coal mining industry, which is required by the Surface Mining Control and Reclamation Act (SMCRA) to pay into an Abandoned Mine Land Fund via a reclamation fee, the hardrock mining industry pays no such fee. Inability to reform the 1872 Mining Law has left communities with little recourse to deal with abandoned hardrock mines.

The mining companies' profits come at the expense of communities, who live with persistent pollution and no help with clean up.

Due to the overwhelming number of abandoned hardrock mines, the scope of the pollution problem and the absolute lack of funding to clean these sites up, we feel we must reluctantly endorse HR 785, to allow uncertified states under SMCRA to use those funds to clean up abandoned hardrock mines.

Our endorsement is reluctant because the fact is that communities should not have to live with the consequences of federal inaction to reform the 1872 Mining Law. Until this antiquated law is reformed, the use of SMCRA funds to clean up

abandoned hardrock mines is a temporary and inadequate band-aid on a problem in need of a long-term solution.

A steady-stream of long-term funding for hardrock abandoned mine lands clean up, similar to the SMCRA program, is essential to dealing with the scope of the problems western states face from abandoned mines. Without real and meaningful reform of the 1872 Mining Law to create a specific abandoned hardrock mine fund, the coal mining industry will continue to subsidize the clean up of abandoned hardrock sites throughout the west.

### **Mining Law Reform Needed**

A variety of real, enduring solutions to the problem of abandoned hardrock mines have been proposed. Last year, Congressman Markey, the ranking member of this committee, introduced HR 3446, the Fair Payment for Energy and Mineral Production on Public Lands Act. This bill would reform the 1872 Mining Law and charge a 7-cent per ton reclamation fee for all material that is displaced during hardrock mining operations, generating \$3 billion in the next 10 years that would be put to work cleaning up some of the most polluting abandoned hardrock mine sites. The Obama administration has proposed a similar fee as part of its FY2012 and FY2013 budgets.

According to a State of Montana study of abandoned mines, each million dollars spent on abandoned mine clean up will create 65 jobs. Many of these jobs are good, high paying jobs that rural communities need in these tough economic times. In addition to job creation, restoration activity would also take degraded lands and put them into productive use. This will benefit local communities and the private landowners who have abandoned mines on their property, and help communities who currently must treat their water supplies for heavy metals and other pollution from abandoned mines. The \$3 billion generated over the next ten years by HR 3446 could create almost 200,000 jobs.

Congressman Heinrich, a member of this subcommittee, has also introduced legislation that would create jobs and begin the arduous task of cleaning up the nearly 4,000 abandoned uranium mine sites, of which a disproportionate number are located on Indian lands. For example, from 1944 to 1986, nearly four million tons of uranium ore were extracted from Navajo Nation mines and over 500 abandoned uranium mines still scar the Navajo Nation. HR 1452, the Uranium Resources Stewardship Act, would impose a 12.5 percent royalty on the uranium mining industry, and move it out of the 1872 Mining Law and into the more modern Mineral Leasing Act. The money generated from the royalty charged on uranium mining on public lands would go toward the much-needed clean up of uranium mill tailings and abandoned uranium mines.

### **Conclusion**

What we're endorsing here is frankly outrageous: the coal mining industry subsidizing the metal mining industry. At a time when precious metals are near all-time highs, rather than require the metal mining industry pay to clean up its own messes, HR 785 forcing a different industry to do so.

We find it necessary to endorse this legislation because communities have waited for far too long for abandoned hardrock mine cleanup, and their water, air and public health will suffer if these sites are not remediated.

This bill doesn't fix the problem. Only a steady-stream of hardrock abandoned mine land funding – from a hardrock mine cleanup fee akin to what SMCRA generates now -- will set us on the right track.

Without a consistent and adequate funding source that would come from reforming the Mining Law of 1872, state, local and tribal governments and citizen groups will be able to move only a small number of projects forward, even with SMCRA funds.

Tackling this large-scale problem requires a large-scale solution, a solution that will create jobs and restore western waters.

Thank you for the opportunity to present the views of Earthworks on this important topic. We appreciate the Committee's consideration of this issue and we look forward to working with you in the future to address the serious impacts of abandoned hardrock mines.