Committee on Resources

Subcommittee on Energy & Minerals Resources

Witness Testimony

Testimony of Stephen D'Esposito
President
Mineral Policy Center
To The Subcommittee on Energy and Mineral Resources,
Committee on Resources,
U.S. House of Representatives
An Oversight Hearing on "Mining Regulatory Issues and Improving the General Mining Laws"
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INTRODUCTION

Chairman Cubin, members of the Subcommittee. Good afternoon. My name is Stephen D'Esposito--I am president of Mineral Policy Center. Thank you for inviting Mineral Policy Center to testify before this subcommittee on the urgent need for comprehensive environmental reform of the 1872 Mining Law.

Mineral Policy Center (MPC) is an environmental organization dedicated to protecting the environment and communities from the adverse impacts of mineral development, and cleaning up pollution from past mining. Our national office, based in Washington D.C., provides support to citizens across the country and around the world. Our field offices in Colorado and Montana assist communities throughout the western United States concerned about the impact of mineral development in their backyards.

MPC has more than 3,000 members. Hundreds of community groups and organizations support our efforts to reform the 1872 Mining Law and improve public policy and industry practices related to mining.

MPC believes that responsible mining can and does occur on our public lands.

Mineral Policy Center Supports Responsible Mining Polices and Practices

Mineral Policy Center supports responsible mining policies and practices: responsible mining policies that give taxpayers a fair return for valuable land and mineral assets, and that eliminate government subsidies to mine on public lands; responsible mining policies that require mining companies meet adequate environmental protection standards; and responsible mining policies that recognize that on <u>some</u> public lands there are resources, and other uses, that may be more valuable than mining, including the protection of environmentally significant areas. Currently, federal law does not offer adequate environmental or taxpayer protections.

Mineral Policy Center recognizes that some mining companies seek to operate in a manner that

protects our environment. But the 1872 Mining Law is actually a disincentive for responsible industry action. The 1872 Mining Law sends the wrong signal to mining companies. It rewards irresponsible behavior. Until it is reformed it will serve as a haven for bad actors and fail to reward those who act responsibly.

Those who most vociferously oppose environmental reform of the 1872 Mining Law, may be those companies who do not believe they are poised to operate successfully in an environment that mandates and rewards environmental performance.

Successful mining law reform will balance the interest of mining companies with those of taxpayers, citizens who seek to protect land and water resources, and future generations who will benefit from well managed public lands.

127 YEARS LATER, ITS TIME FOR MINING LAW REFORM

One hundred and twenty-seven years is too long. It is time to reform the 1872 Mining Law. Written to encourage the development of the mining industry, and the settlement of the western United States, the mining law is a relic of a bygone era - a time when mining was a pick-and-shovel affair, when men moved on horses and in covered wagons.[(1)] The mining law's roots may also have a humanitarian origin, to deter violence that resulted from claim jumping.[(2)] One hundred and twenty-seven years after its passage, its original purposes accomplished, it is time for reform.

Today, the prospector's pan has given way to giant earth-moving machines that cam literally crumble mountains and dig pits the size of small towns. Panning for gold nuggets has given way to the use of potentially lethal chemicals such as cyanide that leach microscopic flecks of ore from massive piles of pulverized rock. Today's prospectors are multi-national corporations and their mine sites occupy thousands of acres of our public land.

While there are technical and engineering solutions to many of the environmental problems that mining can cause, technical solutions are only part of the answer. They will not be enough to fully address the broader environmental, economic, social, and cultural issues that this subcommittee, and all members of Congress, must grapple with. Reforming the mining law is not, after all, just a matter of a technical fix. It is one thing to design a safe and efficient mine, it is quite another to design public policy that results in good decisions about the use of public land and resources. Good public policy must provide a basis for weighing environmental, social, economic, and cultural issues, as well as technical issues.

MILLSITE CLAIMS AND THE 1872 MINING LAW

With the enforcement of the millsite limit of the 1872 Mining Law, it appears that we may have a new ally in the fight for mining law reform, the mining industry.

Organizations Representing Millions of Members Support the Millsite Decision

MPC believes the millsite opinion, effectively enforcing limits on mine waste dumping on public land, is based upon an accurate reading of the 1872 Mining Law. While it is widely accepted that the Mining Law's millsite restriction does not meet the needs of some of today's mining operations, neither does this antiquated law meet the needs of taxpayers, communities near many of today's mines, or the environmental health of our public lands. The massive waste piles produced at many of today's mines have outgrown the mining law.

However, the solution to this problem is not to create a special exemption from the part of the mining law that some in the industry find troublesome. The solution is comprehensive reform that will

balance the needs of the industry, taxpayers and the environment. We should engage in a public debate about reforming all of the mining law, not just the part that the mining industry does not like.

In a March 23, 1999, letter to Secretary of the Interior Bruce Babbitt and Forest Service Chief Michael Dombeck, Mineral Policy Center, Friends of the Earth, Natural Resources Defense Council, Sierra Club, The Wilderness Society, U.S. Public Interest Research Group, Okanogan Highlands Alliance, Western Organization of Resource Councils, and Grassroots Environmental Effectiveness Network (GREEN) petitioned the government to reject the Plan of Operations for the Crown Jewel Mine because it was over the millsite claims limit. To quote from the letter: *In this case, the federal land agencies must determine whether to approve a mining plan that is proposed on public lands that do not contain valid mining and millsite claims under the 1872 Mining Law. A number of other proposed open pit gold mines on federal land face similar issues. The most pressing examples include the Imperial Project in southern California and the Yarnell Mine adjacent to the town of Yarnell, Arizona. Thus, your decisions at Crown Jewel will have ramifications across the West.*

On March 25, 1999, the U.S. Departments of the Interior (DOI) and Agriculture (DOA) released a joint decision stating that they were "unable to approve the proposed Plan of Operations" for the Crown Jewel Mine in the State of Washington.[(3)] The plan for this large open-pit, cyanide-leach gold mine was rejected because it did not comply with the requirement of the 1872 Mining Law that limits claimants to one 5-acre millsite claim for each mining claim.

The March 25, 1999 decision references the November 7, 1997, Solicitor's Opinion entitled "*Limitations on Patenting Millsites Under the Mining Law of 1872*." This 1997 opinion reviews the millsite limit in detail. The conclusion is unequivocal: "the plain language of the mining law indicates that only one 5-acre millsite claim per mining claim may be patented."[(4)]

Before the March 25th decision, mining companies were sometimes permitted, albeit illegally, more than one 5-acre millsite claim per mining claim. Although the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) have permitted multiple millsite claims in some instances, they had no legal basis under the mining law, or under regulations, for such approvals.

The Solicitor's Opinion notes that the current BLM's Handbook for Mineral Examiners may be the source of the problem. It provides for the granting of multiple millsite claims per mining claim. However, as the Solicitor makes clear, "no authority is cited for these statements." While this explains why some BLM field staff may have approved plans of operations that were over the millsite limit, it does not change the fact that the limit exists in the Mining Law.

This is Not Just About Land Use

The recent millsite ruling addresses a fundamental environmental problem--today's mines are dramatically larger and produce more waste than the pick-and-shovel operations that the mining law was written to govern. Management of this waste presents a significant public policy challenge since waste from mines often pollutes surface and groundwater resources with acid mine drainage and heavy metals such as arsenic. The Mining Law does not address these environmental concerns directly. To the extent that it deals with them at all, it addresses them through the millsite limit. This de facto environmental safeguard should not simply be jettisoned, it should remain in place until the Mining Law is reformed to include such protections by design.

History Supports the Millsite Decision

There is ample evidence that Congress, DOI, and many in the mining industry understood the strict millsite limit contained in the Mining Law. Prior to 1960, the Mining Law allowed millsite claims only

in connection with vein or lode claims, not with placer claims. In 1960, Congress explicitly amended the mining law to permit the location of millsites in connection with placer claims.[(5)] The legislative history of the amendment makes it clear that Congress and DOI understood both the millsite limits in the existing statute and the amendment, which permitted only one five-acre millsite claim in connection with a placer claim. The amendment was passed and signed only after input from the DOI caused Congress to remove language that would have permitted millsites "for each individual claimant" and allowed for a larger millsite claim of "10 acres for each individual claimant."[(6)] The amendment was changed as requested by DOI, which sought to have the millsite limit for placer claims match that of lode claims. The report language was explicit:

[T]he word "ten" was stricken and the word "five" inserted in lieu thereof.

The purpose of this amendment is to restrict the area of a millsite in conjunction with a placer claim to 5 acres of land to make it conform with the allowable millsite acreage for lode claims which has been the statutory requirement since 1872 . . .

[T]he words "for each individual claimant" were stricken so as to impose a limit of one 5-acre millsite limit in any individual case preventing the location of a series of 5-acre millsites in cases where a single claim is jointly owned by several persons . . . .

In essence, S.2033 merely grants to holders of placer claims the same rights to locate a 5-acre millsite as has been the case since 1872 in respect to holders of lode claims, and the committee unanimously urges enactment.[(7)]

In 1968, the leading mining industry trade association (the American Mining Congress, the predecessor of today's National Mining Association), in a statement submitted to the Public Land Law Review Commission, acknowledged that the law permits only one millsite claim per mining claim. "When the mining law was enacted in 1872, provision was made for the acquisition of five-acre millsites to be used for plant facilities on mining claims. The typical mine then was a high-grade lode or vein deposit from which ores were removed by underground mining. The surface plant was usually relatively small, and acquisition of five-acre millsites in addition to the surface mining claims … adequately served the needs of mines …Today, the situation is frequently different … A mine having 500 acres of mining claims may, for example, require 5,000 acres for surface plant facilities and waste disposal areas. *It is obvious that such activities may not be acquired through five-acre millsites*."[(8)] *(emphasis added)*

In 1974 in United States v. Swanson, 14 IBLA 158 the Interior Board of Land Appeals stated that: *[A] claimant is entitled to receive only that amount of land needed for his mining and milling operations, and this amount can embrace a tract of less than five acres. The statute states that the location shall not "exceed five acres." . . . The reference to five acres in the statute is clearly a ceiling measure, not an absolute, automatic grant.*

In 1979, the Congressional Office of Technology Assessment confirmed this interpretation of the mining law's millsite provision. There could be as many millsites as there are mining claims, and each millsite would be at most one-fourth the size of the typical 20-acre claim, so that millsites, in the aggregate, would be one-fourth the size of the ore body encompassed by the claims.

The Impacts of Enforcing the Millsite Opinion

Will this be the end of mining on public lands? No, there are mining methods, such as underground mining, that do not necessarily require such vast amounts of space for processing and waste dumping. It is also important to remember that open-pit mining takes place on non-federal lands. In those

instances, mining companies successfully assemble the necessary lands through acquisition, leases, or by purchasing mineral rights. As the Solicitor's Opinion made clear, mining companies can seek to acquire necessary millsite acreage through land exchanges and special use permits. Both methods do require the company to meet additional hurdles and land managers could exercise discretion to prevent "unnecessary" or "undue" degradation of public lands. But these are not unreasonable conditions.

The decision may have an impact on marginal, low-grade deposits. But there is no reason why federal policy should be used to subsidize the mining of such deposits on public lands. In fact, it should be the government's policy to create a level playing field for all mining companies--whether the land is owned by the federal government, the state, or private citizens.

We do not expect open-pit mining to end on public lands as a result of this opinion, nor would we expect, does DOI or the Forest Service.

The Millsite Limit Should be Enforced Until the Mining Law is Reformed

We do not think that the law should be effectively amended, and weakened, to suit the needs of a number of mining companies or even an entire industry. We should not look at this problem from the wrong side. The underlying problem is not the millsite limit. The millsite limit is a symptom. The problem is the outdated 1872 Mining Law. It does not fit today's mining industry, it does not protect taxpayers, and it does not protect the environment. Let's fix the underlying problem, not just treat the symptom.

Some believe that our reading of the millsite limit under the 1872 Mining Law is legally flawed. We disagree. But for those who hold this view there is an obvious remedy and it is not this subcommittee or the Congress. It is the courts.

Some believe there is an urgent need to address this issue because of concerns about retroactivity. We do not think a rush to judgement on these important issues should be driven by such concerns, and we do not believe this issue should be applied retroactively. If necessary, we would support a resolution or amendment specifying that there would be no retroactive application of this issue to currently operating mines. Our objective is not to penalize mining companies that may have benefited from the incorrect application of the Mining Law by either DOI or the Forest Service. Our objective is that this provision now be applied.

WHAT'S WRONG WITH THE 1872 MINING LAW

The 1872 Mining Law allows for public land giveaways and taxpayer subsidies to the mining industry. And it fails to protect our environment and our public lands. Of course, those who crafted the mining law in 1872 could not envision the potential environmental impacts of modern mining. The environmental legacy of this outdated law is all too clear. A 1989 report from the U.S. General Accounting Office found that the Mining Law "runs counter to other national natural resource policies and legislation."[(9)] The GAO found that the mining law "no longer promotes mineral development" and can result in "needless damage" to public lands.[(10)]

Let's Cleanup Our Nation's Abandoned Mines

Estimates of abandoned mines, range from at least 200,000 to over 500,000, scattered across the country. The abandoned mine problem should serve as a wake-up call. Cleanup costs could be as high as $72 billion.[(11)]

We should immediately implement a national program to clean up the hundreds of thousands of unreclaimed and abandoned mine sites. MPC estimates that there are 557,000 abandoned mine sites nationwide, with an estimated cleanup cost of $32 to $72 billion. The Western Governors Association has identified abandoned mine sites in 10 states in need of priority cleanup. In Alaska, the abandoned Treadwall Mine is pockmarked with vertical shafts, open portals and pits, and a dangerous highwall 500 feet tall. Because the site is adjacent to the cities of Juneau and Douglas it receives extensive use by the public. Washington state residents are struggling with a toxic legacy at the Holden Mine where acid mine drainage from waste rock and 18 million tons of tailings have rendered 12 miles of nearby river biologically dead. In Utah, the abandoned Temple Mountain site is home to 300 open uranium mines with moderate to high radionuclides.[(12)] Californians are still living with the festering Iron Mountain Mine, which is predicted to continue leaching acid for at least 3,000 years. And that is just to name a few.

Reclamation of sites like these would restore valuable lands, eliminate public safety and health threats, and create up to 10,000 jobs.[(13)] The question is not whether it should be done, but how it should be funded. Potential sources of funding include a mineral royalty, rental fees, and through other sources such as a reclamation fee. Establishment of this fund should not be delayed.

We Should Permanently End $2.50 An-Acre Public Lands Giveaways

Although an annual moratorium is in place, the 1872 Mining Law allows public land giveaways at the bargain-basement rate of $2.50 or $5.00. This was a bargain in 1872, today it's a steal. Patenting is not necessary to mine on public lands.

According to the Department of Interior, during the Mining Law's first 120 years, 315 million ounces of gold, 5.5 billion ounces of silver, 79.5 million tons of copper, 19.2 million tons of lead, and 13.9 million tons of zinc were mined in 13 western states. In 1994 we estimated the value of these minerals at more than $231 billion. That's just the minerals under the land, it doesn't take into account the value of the land.

Taxpayers Deserve a Fair Royalty

When a mining company mines on public land, they do not pay a royalty. When they mine on private or state land, mining companies pay a royalty that can range from 5% to 18%. What is the justification for not requiring a royalty for mining on public lands? There is none. The coal, oil and gas industries pay a fee when they mine on federal lands. Why not the hardrock mining industry?

Consider these excerpts from the testimony of Dr. W. Thomas Goerold, a noted minerals economist to the Senate Energy and Natural Resources Committee, Subcommittee on Mineral Resource Development and Production, on September 13, 1990:

"*Current domestic hardrock mineral producers sometimes claim that paying for federal minerals would be so burdensome that it would force a significant portion of them out of business. A cursory examination of the evidence does not support these claims. Producers of leasable minerals found on federal lands have paid royalties and land rentals since 1920 and no one questions the health of these industries. Moreover, miners of hardrock minerals have a long history of routinely paying royalties and rental payments when these same minerals are found on state or private lands.*"

"*Hardrock mineral miners maintain that there is still a fundamental difference between hardrock minerals production and other businesses, as well as between hardrock minerals firms and other mineral producers that pay land rental and royalty fees to the Federal Government for use of publicly owned resources. Contrary to industry claims, these purported distinctions do not justify the privileged treatment*"

accorded producers of hardrock minerals. The Office of Technology Assessment supports this view. The OTA believes that the distinctions between leasable (generally energy and chemical minerals requiring government permission and payment of lease and royalty fees) and locatable minerals are more artificial than real."

Do hardrock miners on federal lands have more importance than automobile manufacturers, retail store owners, or any other business not eligible for similar government subsidies? Are hardrock miner producing minerals from federal lands more important than these same producers mining state or private lands?

One argument advanced by mining interests against the imposition of royalties for federal hardrock minerals is that the Federal Government already taxes the profits of these companies. This is a misleading argument--most non-mineral businesses do not obtain the inputs to their firms from the federal government at no cost, yet virtually all pay a federal income tax. Royalty and rental free mineral operations are analogous to a gift of steel and rubber to automobile manufacturers, or free office rental to an accounting firm, courtesy of the U.S. Government.[(14)]

There are also federal land parcels in Minnesota, Missouri and Ilinois where miners pay royalties for extraction of hardrock minerals. And even on federal lands, mining companies are willing to pay royalties, to other mining companies but not to the taxpayer.[(15)] **In October 1993, Newmont Mining Corporation leased 1872 Mining Law claims on BLM Land at Grassy Mountain in Oregon from the Atlas Corporation. Newmont paid a $22.5 million cash bonus and a $5 net smelter royalty production.**

A net smelter royalty of between 8% and 12.5% should be enacted. The proceeds from this royalty should be used to fund abandoned mine cleanup.

We Should Let Mining Compete With Other Land Uses

127 years ago it may have been possible to make a case that mining deserved preferential treatment on public land, over all other uses. Today there is no social or economic good that justifies this preferential treatment. There are public lands that deserve protection, and there are public lands that are more suitable for other economic or recreational purposes.

Land managers should have the authority and discretion to protect environmentally significant public lands, weigh other land uses, and deny permits for poorly planned mines. A mining permit application must clearly demonstrate, before mining begins, how the mining and reclamation project will occur so as to minimize environmental impacts. Land managers must have the authority to deny mining permits in environmentally fragile areas, or critical wildlife habitats and areas otherwise found to be unsuitable for mining.

We Should Protect Our Public Lands and Environment

Environmental safeguards must protect water resources and prevent significant long-term environmental damage. It is worth noting that a 1987 study by the EPA rated problems related to mining waste as second only to global warming and stratospheric ozone depletion in terms of ecological risk. The report concludes "with high certainty" that the release to the environment of mining waste "can result in profound, generally irreversible destruction of ecosystems." In a 1985 report the EPA stated that mining for hardrock minerals, asbestos, and phosphate alone generates 1 to 2 billion metric tons of waste each year, and that "perhaps 56% of the waste generated could be considered potentially hazardous to human health or the environment." Mining has polluted 12,000 miles of rivers and streams and 180,000 acres of lakes.[(16)]

Environmental safeguards should include provisions for water protection, full cleanup and reclamation, environmental operating standards, enforcement requirements, and guarantees that the mining company will pay for full closure and cleanup. We are all familiar with the Summitville nightmare. In 1992, the Summitville Consolidated Mining Company declared bankruptcy and walked away from its environmentally disastrous cyanide, heap-leach gold mine in the San Juan Mountains of southern Colorado. Taxpayers, meanwhile, have been left with a devastated landscape and an enormous cleanup bill. So far the State and EPA have spent $130 million dollars to reclaim and restore the site, and expect to spend another $45 million dollars before the job is done.[(17)] With a reclamation bond of $4.7 million[(18)], taxpayer liability equates to approximately $170.3 million. This is today's problem because the taxpayer bill is still mounting.

The Public Should Participate in Mining Decision on Public Lands

The public must have the right to fully participate in mine decisions on public lands. This includes access to information, the right to comment on permit and regulatory actions, the right to petition the government to designate an area unsuitable for mining, the right to file citizen complaints, the right to accompany an inspector to a site, and citizen suit provisions to compel enforcement. The public must have the right to fully participate in mine decisions on public lands.

ZORTMAN-LANDUSKY, A REFORM CASE STUDY

The Zortman-Landusky Mine (ZL) is a prime example of why the 1872 Mining Law needs urgent reform The Zortman-Landusky mines is located on BLM managed lands in the Little Rocky Mountains of Montana. It is the home of the Assiniboine and Gros Ventre Tribes of Fort Belknap who have a strong cultural and spiritual connection with the Little Rockies. In fact, Spirit Mountain, where the mine site is located was considered a sacred site.

This was a large-scale open-pit cyanide heap leach gold mine. It was the largest gold mine in Montana and it mined the lowest grade ore in the United States. It caused more land disturbance per amount of gold extracted than any other gold mine in the U.S. During typical operations, more than 55 tons of ore are processed to yield a single ounce of gold.

During its operation, Zortman-Landusky experienced a litany of cyanide solution leaks and spills, stability failures, surface and groundwater contamination, bird and wildlife fatalities, and other problems. Streams emanating from the mine area, including water flowing onto the reservation, were seriously polluted with acid and heavy metals. The mine experienced numerous cyanide spills. There have been severe problems with acid streams and fish kills. Following a major spill, cyanide appeared in domestic drinking water in a mine worker's housing unit south of the mine.

The mine was operated by Pegasus Gold Incorporated. Responsibility for the mine's troubled track record rests not only with Pegasus Gold, but the 1872 Mining Law and weak environmental safeguards.

Things got worse when the stock of Pegasus plunged in late 1997 due to the falling price of gold and legal troubles. Pegasus declared chapter 11 bankruptcy on January 16, 1998.

Today in the state of Montana, government officials estimate that this recently abandoned open-pit cyanide heap-leach gold mine could cost state taxpayers $8 million in cleanup costs.[(19)] **An independent mining engineer has estimated that the cleanup bill to taxpayers could be an additional $90 million. It is estimated that Pegasus produced $360 million worth of gold at the mine and returned $0 to the taxpayer. And it is likely that the taxpayer will get stuck with a substantial cleanup bill.**

During the bankruptcy proceedings, the company outraged both state officials and the public when it

sought to pay executives a bonus of $5 million, just as state officials revealed that taxpayers could get hit with a cleanup bill of $8 million. And in June the company appointed by the state to handle reclamation, was fired because it had already spent its entire annual budget in just six months.

There has been a history of problems like this with cyanide process gold mines in Montana. As a result, in 1998, Montana voters passed a ban on all new cyanide process mines.

NOW IS THE TIME FOR COMPREHENSIVE MINING LAW REFORM

It has been six years since the last significant attempt was made to reform the mining law. There is too much at stake on our public lands, in our Western communities, for American taxpayers, and for the mining industry, to delay further.

Over the years, a number of bills have been introduced under the reform label that are actually not true reform bills because they fail to adequately address the fundamental environmental and fiscal shortcomings of the mining law. These bills typically contain miniscule royalties and wide loopholes for escaping royalty payment, fail to address important environmental protection issues, and do not allow land managers to weigh other uses of public lands. One telltale sign of a sham reform bill is the use of a "net proceeds" royalty. The "net proceeds" royalty allows companies to deduct so many costs before paying a royalty that the taxpayer ends up with almost nothing.

Some will argue that now is not the time to reform the mining law because mining companies are already suffering as a result of today's low mineral prices. But mineral prices have, and always will, fluctuate. It is in the public's interest to take action that will stimulate other commercial and non-commercial uses of our public lands, including preservation. And it is in our best interest to pursue environmental objectives that will lead to job creation in mining communities or former mining communities, such as abandoned mine cleanup. Taxpayers deserve a fair royalty and our public lands deserve environmental safeguards, whatever the price of metals happens to be.

Policies that provide public subsidies to mining companies create an incentive for inefficient mine operations on public lands, perhaps in places that are best used for other purposes. These subsidies lead to an unfair economic advantage for some companies and may result in inefficiencies and over-supply. The net impact of such policies is to make mining more attractive on federal lands than on other lands. "The Federal government, by forgiving this normal mineral business cost, has distorted the distribution of economic activity, discouraging mining on private, state, and tribal land and encouraging it on Federal land."[(20)] Continuation of this policy is not in the country's economic interest.

It is time to put an end to the subsidies and favors that mining companies receive on public lands. The net results of 1872 Mining Law reform will be healthier communities and healthier ecosystems, jobs creation, and, we believe, a healthier mining industry.[(21)]

A mining industry that is rewarded for its environmental performance, and penalized for its environmental mistakes, will be a healthier industry, both in the United States and around the world. It is in the interest of this subcommittee to create incentives for better environmental performance on our public lands. Improved environmental performance will increase the competitiveness, marketability, and performance of U.S. mining companies.

The United States economy has developed to the point that mineral development no longer needs preferential treatment on our public lands. The way we manage and use our public lands today will have an impact on the landscape and opportunities we pass on to future generations. The federal government has a duty to manage those lands in a manner that is in the public interest, not in the

short-term interest of a particular industry. Is it wise to allow management of our public lands to be governed by a 19th century law that no longer reflects, and in fact, runs contrary to popular opinion? Sixty-seven percent of all Americans say no.[(22)]

To summarize, we recommend that Congress permanently end public lands giveaways to mining companies, impose a fair royalty for mining on public lands, create an abandoned mine cleanup program, and end the policy of giving mining companies first-use of our public lands. Thank you.

> **" . . . After eight years in this office, I have come to the conclusion that the most important piece of unfinnished business on the nation's resource agenda is the complete replacment of the Mining Law of 1872."**
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> **Stewart L. Udall, Secretary of the Interior, 15 January 1969**

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1. ***Federal Land Management: The Mining Law of 1872 Needs Revision*, GAO Report/RCED-89-72, March 1989, 2.**

2. **Multiple Conflicts Over Multiple Uses, Reform of the 1872 Mining Law: A Primer, John L. Dobra, ed. Terry L. Anderson, Political Economy Research Center, 1994, 39.**

3. ***The "Crown Jewel Mine Decision,"* U.S. Department of the Interior, Solicitor John Leshy, Mar. 25, 1999.**

4. **Limitations on Patenting Millsites Under the Mining Law of 1872, U.S. Department of the Interior, Solicitor John Leshy, Nov. 7, 1997.**

5. **Pub. L. No. 86-390, 74 Stat. 7 (1960), codified at 30 U.S.C. sec. 42 (b) (1994).**

6. **The original bill was introduced in 1959 as S.2033. 105 Cong. Rec. 8734 (1959).**

7. **S Rep. No. 904, 86th Cong., 1st Sess., at 2.**

8. **American Mining Congress, *The Mining Law and Public Lands*, at 29, Jan. 11, 1968.**

9. ***Federal Land Management: The Mining Law of 1872 Needs Revision*, GAO Report/RCED-89-72, Mar. 1989, 3.**

10. **Ibid**

11. **Mineral Policy Center estimates. See MPC methodology in Mineral Policy Center, *Burden of Gilt*, June 1993, 28-31.**

12. ***Abandoned Hardrock and Noncoal Mines in the West*, Draft, Western Governor's Association, March 24, 1998.**

13. **Burden of Gilt, Mineral Policy Center, June 1993, 3.**

14. **Dr. W. Thomas Goerold, Testimony before the Senate Subcommittee on Mineral Development and Production, Sept. 13, 1990.**

15. **Ibid**

16. **U.S. Environmental Protection Agency, *Fish Kills Caused by Pollutioin, Fifteen Year Summary 1961-1975*, Apr. 1978, 8.**

17. ***Gold mine cleanup progresses*, The Denver Post, June 16, 1999.**

18. **Summitville Consolidated Mining Company Inc./Galactic Resources Inc./Galactic Resources Ltd., Summitville Mine Site, State of Colorado, Division of Minerals and Geology, Feb. 1, 1993.**

19. ***Mining company sues state over cleanup plans*, Great Falls Tribune, Sept. 3, 1998.**

20. **American Mining Congress, The Mining Law and Public Lands, at 29, Jan. 11, 1968**

21. Mineral Policy Center, Thomas Michael Power, *Not All That Glitters*, 1993.

22. *Findings from a National Bipartisan Survey of Voter Attitudes Toward Mining Law Reform*, Prepared for MPC et al by Frederic,/Schneiders Inc., September 1994.

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