

Testimony of Ted Fitzgerald  
Trout Unlimited

Before the Energy and Mineral Resources Subcommittee  
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1334 Longworth House Office Building

My name is Ted Fitzgerald, and I am the Project Manager for Trout Unlimited's American Fork Canyon watershed restoration project. Trout Unlimited is the nation's largest coldwater fisheries conservation group dedicated to the protection and restoration of our nation's trout and salmon resources, and the watersheds that sustain those resources. TU has over 140,000 members in 450 chapters in 38 states. Our members generally are trout and salmon anglers who give back to the resources they love by voluntarily contributing substantial amounts of their personal time and resources to fisheries habitat protection and restoration efforts. The average TU chapter donates 1,000 hours of volunteer time on an annual basis. In 2004, TU volunteers donated 464,000 hours of time to trout and salmon conservation and education work.

Prior to coming to Trout Unlimited I was the On-Scene Coordinator for the American Fork Canyon Mine Reclamation Project on the Uinta National Forest in Utah. Prior to that I served as a District Ranger, Forest Engineer, and Mineral Staff Officer on the Fishlake National Forest. My retirement from the Forest Service lasted precisely two months before I went to work for Trout Unlimited. Few jobs could have pulled me from the lure of casting for trout and spending more time with family. But given that I had invested four years of my life completing the reclamation of abandoned mines on the public lands of the American Fork, when TU offered me the chance to finish the job on private lands within the watershed, it was an offer I couldn't refuse.

The purpose of this hearing is to talk about the competitiveness of America's mining industry. Responsible mining is a vital economic opportunity in many rural communities in the West. I know because I was raised in a coal town owned and operated by the United States Fuel Company, Hiawatha, Utah. Like so many mining operations in the US, that mine was closed, the town emptied, and virtually abandoned. What I'd like to focus on in my testimony is the related topic of abandoned mines.

At Trout Unlimited, we believe it is only prudent that we spend at least as much time talking about how to clean up the legacy of historic mining as we do in planning new mining for the future. A conservative approach would require minimizing significant investments in new operations and their additional environmental impacts, at least until we have a plan to address the human health and water quality liabilities associated with the legacy of abandoned mines.

The Environmental Protection Agency (EPA) estimates that approximately 40 percent of western headwater streams are affected by abandoned mines. Estimates for cleaning up the legacy of hard rock mining in the West are large, ranging from \$36 to \$72 billion. The geographic scale and financial scope of the problem have caused many communities and organizations to simply throw up their hands and walk away from the problem.

As you know, hard rock mining in the United States is governed by the 1872 Mining Law, a law that has resisted change for many decades. Unlike every other commodity that is produced from public lands in the western United States – oil, gas, coal, wood fiber, and forage – there is no federal funding source directed toward the mitigation, reclamation, or restoration of lands affected by abandoned mines. Left unattended, relatively small problems grow worse. Squabbles over royalties have long delayed congressional action forcing governors, local communities, resource agencies, and private organizations to either turn a blind eye or cobble together funding from disparate sources. The other option, of course, is to wait for EPA to designate an area as a Superfund site. However, waiting until a river or a landscape achieves the dubious distinction of Superfund status, means we have waited too long.

With all due respect, rather than spend our time on Capitol Hill lobbying for changes to a 133 year old mining law, Trout Unlimited decided that our resources were better spent demonstrating how restoration of abandoned mine lands can work when willing partners, resources, and community-interests come together. Even on the American Fork, we will not solve 100 percent of the problem. We will, however, stem the bleeding from those sites that directly affect human health, water quality, and fisheries. Our hope is that the American Fork will serve as a replicable model for other communities and watersheds across the western United States.

At first glance, the North Fork of the American Fork River in Utah seems an unlikely location to harbor one of the most serious and least addressed environmental problems in the West today, heavy metals concentrated by abandoned mines sufficient to be harmful to wildlife, humans, the water in the stream and the fish it harbors. This small creek tumbles down scenic canyons surrounded by 10,000 foot high peaks, through the Timpanogos Cave National Monument, between Utah's population centers of Provo and Salt Lake City, and into Utah Lake. The river's high levels of arsenic, lead, zinc,

and cadmium have spawned fish consumption advisories in recent years for the 1.2 million visitors that travel along its banks annually.

Mining operations for silver, copper, lead, and gold occurred in the area from 1870 through the 1950s. Heavy metals such as arsenic, lead, cadmium, and zinc leached into water, soils, and sediments. Left behind on the landscape are mill tailings piles, waste rock dumps, adits, and smelter wastes – all containing elevated levels of heavy metals.

Soil samples near one site revealed lead concentrations at more than 8 times the federal standard for human exposure at many Superfund sites. The American Fork and its tributaries are identified by the State of Utah as important to the recovery of the Bonneville cutthroat trout – a species that has been petitioned for listing under the Endangered Species Act. The state of Utah issued a Fish Consumption Advisory in 2002, warning people to limit their consumption of fish from the river due to arsenic concentrations in the fish tissues.

As with most abandoned mines in the western United States, the bulk of the mining activity in the area took place long before most of the current population was born or took residence in the area. Thus, the potential public health hazards have yet to be recognized by people living in the area. In fact, some of the waste piles with the highest concentrations of lead became sites for ATV riders and motorcycle users to traverse.

From 1999-2003, precipitated by violations of the Clean Water Act, the Forest Service cleaned up the worst abandoned mines on public lands in the American Fork watershed. The adjacent private landowner, Snowbird Ski Resort, perceived they had little incentive to do so on their lands. Under existing law, Snowbird was worried they might become a “potentially responsible party” to any future problems if they were to try and clean up the mess of abandoned mines they inherited when they bought the property in the 1960s. Moreover, the cost of cleanup was expensive far exceeding the value of the impacted lands.

Thanks to Senator Bennett, EPA, NRCS, Forest Service and other private sources, we have begun to secure financial resources that will make the completion of the clean up of the American Fork possible. Moreover, Snowbird has agreed to not only allow the clean up to take place, but to serve as an active partner in the restoration.

The first step for a non-profit such as Trout Unlimited, however, was to get clearance from the EPA so that we would not become a potentially responsible party. The process to give us the needed clearance – called an Administrative Order on Consent (AOC) as provided under CERCLA – is now 8 months in the making, but we hope it will be completed soon by the EPA. Once complete, our hope is to use this AOC as a tool to help convince other non-profit organizations and private landowners to take corrective action on their own abandoned mines that are polluting water and harming fisheries.

Abandoned mines represent the most pervasive and least addressed threat to the health of western communities, waters, and fisheries in the West. The good news is that there is no constituency or lobby group asking for more acid mine drainage in our drinking water and streams. The agreement among disparate parties to clean up the American Fork offers hope for all western waters similarly affected by abandoned mines. Such private-public partnerships can create a model for other communities whose health, water quality, and fisheries are similarly compromised by abandoned hard rock mines.

None of that good work can happen, however, without resources. Trout Unlimited urges the authorization of a similar reclamation fund for cleaning up abandoned hardrock mine pollution in the western United States, as has been legislatively provided to clean up coal mines. The need for restoration of these sites far outstrips the available resources. In the West, it is not a matter of finishing the job of cleaning up abandoned hardrock mining sites, it is imperative to get started.

Mining of gold, silver, and copper helped to settle the West, and provide economic opportunity for a growing nation. However, as I mentioned above, we forgot to leave the resources in place to clean up in the aftermath of the Gold Rush. Repairing these ticking time-bombs that dot the hillsides of western rivers will improve water quality and fisheries, and provide thousands of high-paying family-wage restoration jobs.

Trout Unlimited urges this committee to take an important step and address abandoned mines, as these present real problems to real people in real communities. And in the process of restoration, we will not only make our lands safer and provide thousands of high-paying skilled restoration jobs, we will help to reconnect our communities to the lands and waters that sustain them. Specifically, we urge you to start developing a legislative solution to establish a fund specifically dedicated to cleaning up abandoned hardrock mines.

Thank you for inviting me to testify here today.