



Sweet Deals from 1872

Modern Mining Needs a Modern Law

Under a law set down in 1872, mining was considered the “highest and best use” of public lands, taking priority over homesteading or agriculture on public lands with mineable quantities of minerals. Today, when public needs for public lands are even greater and miners dig low grade ores with minerals measured at microscopic levels, this old policy still gives mining a sweet deal. In the words of a former Forest Service Chief, the 1872 Mining Law “confounds ... efforts to balance multiple uses” of public lands.¹

The Mining Law gives mining for gold, silver, uranium, and other hardrock minerals precedence over recreation, watershed protection, ranching, habitat protection, and other public needs. And it remains fundamentally unchanged from the day it was signed by President Ulysses S. Grant. *Over its 135 year lifetime, the Mining Law has rewarded some, but shortchanged the public.*



Under the Mining Law, minerals are taken from federal lands without payment to taxpayers and without rental fees for acreage used for milling, waste disposal, and other mining-related purposes. This sweet, royalty-free deal doesn't cover coal, oil, gas, or common minerals. In fact, from 1920 to 2000, royalties deposited into the U.S. Treasury from coal mined on federal lands topped \$6 billion.²



Since passage of the Surface Mining Control and Reclamation Act in 1977, coal miners have paid production fees for abandoned mine cleanup. As of September 2005, more than \$7 billion had been collected from operations on public and private land.³ The 1872 Mining Law offers a sweeter deal. **Although thousands of hardrock mines have been abandoned, no similar fees have been collected from non-coal operations, and no federal hardrock mine reclamation program has been established.**



The Mining Law lets claimholders buy public property for no more than \$5 per acre. Once a purchase or “patent” is finalized, the claimholder need not mine. In 1986, for example, the government sold 17,000 acres in Colorado for around \$42,000. Weeks later, the “miners” sold the same land to major oil companies for \$37 million.⁴ In 1970, land in Phoenix, Arizona went for \$2.50 an acre, as required by the 1872 Mining Law. Ten years later the land was sold for \$400,000 and a share of proceeds of a future resort.⁵ Today, an elite hotel and golf course sit on the 60-acre site.⁶ Public land leased by other extractive industries remains in public hands.

¹ Michael P. Dombeck, letter of resignation to Secretary of Agriculture Ann Veneman, March 27, 2001.

² See U.S. Department of Interior, Minerals Management Service, Minerals Revenue Management, Commodities Statistics for onshore coal at <http://www.mrm.mms.gov/Stats/comm.htm>.

³ US Department of Interior, Office of Surface Mining, Abandoned Mine Land Fund: Status at <http://www.osmre.gov/fundstat.htm>.

⁴ General Accounting Office, Federal Land Management: The Mining Law of 1872 Needs Revision, March 1989.

⁵ “America for Sale,” *Insight* v 7, no 23, June 10, 1991.

⁶ Mike Dombeck, former Director, Bureau of Land Management and Chief, U.S. Forest Service, “Your Birthright, Up for Grabs,” opinion in Los Angeles Times, Nov 18, 2005.



The Mining Law is a sweet deal for foreign-owned companies, who enjoy easy access to U.S. public lands. In 1994, a Canadian company paid \$9,765 for about 1,949 acres of federal land in Nevada. At sale time, the mine was estimated to hold 30 million ounces of gold,⁷ with a value ranging from \$8 to \$10 billion.⁸ In the same year, 23 of the top 40 companies taking minerals from public lands were subsidiaries of foreign corporations, according to the Department of Interior.⁹



Sweet deals for mining companies can be bitter pills for local communities, but **the Mining Law, written when miners worked in remote areas, doesn't give local or tribal leaders a voice in mining decisions.** In 2004, for example, over the objections of Gunnison County, Colorado, and the Town of Crested Butte, 155 acres of prime recreation land was sold to a mining company for \$875.¹⁰ And though the Board of Supervisors of Coconino County, Arizona is objecting to possible uranium mining next to the Grand Canyon, the Forest Service argues that the Mining Law prohibits them from denying permits to the British company conducting exploration on public lands.¹¹



The Secretary of Interior can cancel a permit if a company doesn't exercise "due diligence" in prospecting for coal, phosphate, sodium, oil, or gas on public lands. And coal operators must produce commercial quantities within 10 years of receiving a competitive lease. Would-be hardrock miners are not compelled to act. **The Mining Law allows a claimholder to hold a claim indefinitely without producing marketable minerals.**¹²



Hardrock mining operations can cover thousands of acres, last for decades, take more than pictures, and leave behind millions of tons of waste, but they pay less than those working with a camera. A single commercial photographer working on federal lands in California is charged a rental fee of \$100 per day. A movie crew of 50 or more filming in Nevada is charged \$750 per day.¹³ These rental fees are in addition to processing charges ranging upwards from \$104. Claimholders pay no rental fees but are charged "claim maintenance fees" of \$135 per claim per year¹⁴ -- about .37 per day. Fees may be waived for those with 10 or fewer claims.¹⁵

Be true to America's taxpayers.  End this sweet deal. Reform the 1872 Mining Law.

THE PEW CAMPAIGN FOR
RESPONSIBLE MINING
RECLAIM OUR FUTURE

For more information, contact Velma Smith, Pew Campaign for Responsible Mining at 202.887.8859 or vsmith@pewtrusts.org.

⁷ John H. Cushman, Jr., "Forced, U.S. Sells Gold Land for Trifle," New York Times, May 17, 1994.

⁸ Timothy Egan, "Billions at Stake in Debate on a Gold Rush," New York Times, Aug 14, 1994.

⁹ Timothy Egan, "Billions at Stake in Debate on a Gold Rush," New York Times, August 14, 1994.

¹⁰ Steve Lipsher, "Sale of mining patents roils Crested Butte residents," Denver Post, April 6, 2004.

¹¹ Felicity Barringer, "Uranium Exploration Near Grand Canyon," New York Times, February 7, 2008.

¹² U.S. Department of Interior, Bureau of Land Management, Coal Operations, at http://www.blm.gov/wo/st/en/prog/energy/coal_and_non-energy_print.html.

¹³ U.S. Department of Interior, Bureau of Land Management, Filming on Public Lands: Fees at <http://www.blm.gov/nhp/what/commercial/filming/fees.html>.

¹⁴ 43 CFR Part 3834, Mining Claim and Site Maintenance and Location Fees--Fee Adjustment, September 1, 2005.

¹⁵ U.S. Department of Interior, Bureau of Land Management, Annual Mining Claim Filing Requirements at <http://www.blm.gov/az/st/en/prog/mining/claims.1.html>.