



**Testimony of Lauren Pagel  
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Testimony before the U.S. House Subcommittee on Water Resources and  
Environment Hearing on Abandoned Mines in the United States and  
Opportunities for Good Samaritan Cleanups  
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Thank you Chairman Gibbs, Ranking Member Napolitano and Members of the Subcommittee for the opportunity to speak with you today about reclaiming abandoned hardrock mines and Good Samaritan policy.

Earthworks is a non-profit organization dedicated to protecting communities and the environment from the destructive impacts of mineral and energy development. For over a quarter century, we have worked closely with a broad coalition of local governments, Native Americans, citizen groups and other conservation organizations to improve the policies governing hardrock mining, including abandoned mine reclamation.

In the wake of the August 5th Gold King Mine disaster, which spilled million gallons of acid mine drainage into a tributary of Colorado's Animas River, communities who live with the threat of old mines are demanding solutions. In the near term, the community impacted by the Animas River spill needs a permanent water treatment facility and immediate compensation for losses.

But the apparent influx of abandoned mine waste into the Uncompahgre River that occurred a little over a week ago highlights the fact that this problem is not limited to the Gold King Mine. It is nationwide, focused on the west.

In order to solve the nationwide problem of perpetual pollution from inactive and abandoned hardrock mines, we must reform the 1872 Mining Law and institute a reclamation fee similar to the one paid by the coal industry.

Good Samaritan initiatives that do not include a dedicated and significant funding source are little more than a distraction from the real problem facing western communities and water resources. Complicated, expensive clean ups like the Gold King Mine require a dedicated cleanup fund with significant resources, not a Good Samaritan. If the 1872 Mining Law had been reformed years ago, and an abandoned mine reclamation fund created, Silverton, Colorado would have been able to clean up surrounding old mines years before they became a catastrophic threat without branding itself a Superfund site.

### **Old Mines Pollute Western Waters**

In the early 1990's, Earthworks assessed the scope of the abandoned mine problem estimating that the United States has over 500,000 abandoned hardrock mines. To date, there is still no comprehensive inventory of abandoned hardrock mines, no system to prioritize the most dangerous of these mines are prioritized for cleanup, and almost no funds to clean up these sites. According to the Environmental Protection Agency (EPA), estimated cleanup costs total approximately \$50 billion dollars.

Western communities face significant burdens associated with these old mines. At least 40% of the streams feeding the headwaters of Western watersheds are polluted from mining. That's because many mines -- like Gold King -- have significant acid mine drainage problems, which can persist for thousands of years if left untreated.

Abandoned uranium mines pose the added threat of radiation exposure. The EPA estimates there are at least 4,000 abandoned uranium mines in the 14 western states. Uranium mining produces radioactive waste in addition to the heavy metals found in most hardrock mine waste. Continued exposure to radioactive materials such as radium and thorium has caused serious health problems for those living nearby.

In states like Montana—where state severance tax revenues and SMCRA federal funds are available for use — there is a small stream of monies to remediate only a few sites a year. In other states, there are few sources of funds available to correct this pervasive problem in old mining districts. As a result, the number of abandoned mines that cause safety or environmental hazards far outweigh the funding available to reclaim them.

The single largest obstacle to the restoration of abandoned hardrock mines is the lack of an independent and significant funding source for clean up. The antiquated 1872 Mining Law currently allows mining companies to take hardrock minerals from public lands for free. The lack of any payments for federal minerals taken from public lands has brought us to where we are now -- hundreds of thousands of unreclaimed, polluting mines and no resources to clean them up.

By contrast, the Surface Mining Control and Reclamation Act (SMCRA) requires the coal industry to pay both a royalty and a reclamation fee. That reclamation fee funds an Abandoned Mine Reclamation Fund which pays to clean up old coal sites across the country. The hardrock mining industry pays no such fee. In fact, in some states, the coal industry's fund goes to clean up the messes of the hardrock mining industry.

If the hardrock mining industry had been subject to a SMCRA-like law from 1977 until now, paying a fair royalty for the minerals they take from public lands and putting funds into a reclamation program, the Gold King Mine spill likely would not have happened. An independent, long-term funding source for hardrock abandoned mine cleanup, similar to the SMCRA program, is long overdue and the only way to deal scope of the problems western states face from abandoned mines. There is no other solution to our abandoned and inactive mine problem than an industry-funded reclamation program.

### **Good Samaritan Policies Won't Solve the Problem**

The pollution from abandoned mines continues despite an existing clear administrative process for Good Samaritans to help clean up these sites. Civic, religious, and conservation organizations do perform cleanup activities that have improved conditions and water quality at some old mines.

The EPA has created a process through which qualified projects can receive what is effectively a Good Samaritan permit. Applicants need only receive an Administrative Order on Consent from EPA to become a Good Samaritan and earn liability waivers from the Clean Water Act and the Comprehensive Environmental Response, Compensation, and Liability Act or Superfund. Earthworks supports this process and has supported several legislative proposals in past Congresses that create narrow exemptions from Clean Water Act liability.

But asking Good Samaritans to clean up old mines, either through an administrative process or via legislation, will not and cannot fully address the hundreds of thousands of old mines that currently threaten our safety and clean water. Unfortunately, there are many other ticking time bomb old mines out there just like the Gold King Mine -- messy, complicated and incredibly expensive to clean up. Even the temporary water treatment plant at the Gold King Site will cost \$1.78 million to set up, and \$20,000 a week to operate.

Without funds at their disposal, Good Samaritans can tackle some small projects that may improve water quality. But, Good Samaritans can do nothing to help tackle these larger problem sites --- that must be done by skilled reclamation professionals with monies from a dedicated clean up fund.

### **A Hardrock Mining Reclamation Fund: Millions of Jobs, Cleaner Water**

According to data from the State of Montana abandoned mine lands program , each million dollars spent on clean up creates 81 jobs. In addition to job creation, restoration activity puts degraded lands into productive use and grants relief to communities currently shackled with excessive costs for water treatment of pollution from abandoned mines.

The Obama Administration's FY2016 budget proposes a reclamation fee on all hardrock mining, similar to the fee paid by the coal industry. This fee would generate an estimated \$180 million per year to fund abandoned mine restoration, creating an estimated 14,580 jobs annually for those in the mining industry. In addition to a reclamation fee, a royalty, also similar to what is paid by the coal industry, could generate an additional \$410 million over 10 years, allowing us to spend over \$2 billion dollars by 2025 on much-needed clean up, with over 175,000 jobs created.

Congressman DeFazio, Congressman Grijalva, Congressman Lowenthal and others have introduced legislation that would bring us closer to ensuring that the Animas mine disaster does not happen again. HR 963, the Hardrock Mining Reform and Reclamation Act of 2015, would facilitate the clean up of abandoned hardrock mines while creating tens of thousands of reclamation jobs across the west far into the future. This bill modernizes the antiquated 1872 Mining Law by balancing mining with other land uses, ensuring a fair royalty return for taxpayers, and creating a reclamation fee of seven cents per ton on mining waste.

Creating a dedicated, significant, stream of funding is the only way to fully address the problem of cleaning up over half a million abandoned hardrock mines. Without this funding, state, local and tribal governments and citizen groups can only clean up a small number of mines. And without the funding to comprehensively inventory and prioritize

abandoned/inactive mines, they would do in the dark. Tackling this large-scale problem requires a large-scale solution. One that will both create jobs and restore western waters.

Thank you for the opportunity to present the views of Earthworks on this important topic and we look forward to working further with the Committee to address the real problem that abandoned mine sites pose to air, water and public safety in western states.

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