

Statement of Dusty Horwitt, JD

Public Lands Analyst, Environmental Working Group

Hearing on H.R. 2262, The Hardrock Mining and Reclamation Act of 2007 Before the House of Representatives Committee on Natural Resources, Subcommittee on Energy and Minerals
Thursday, July 26, 2007 at 10 am

Submitted for the Record

Background

Mr. Chairman, distinguished Members of the Subcommittee: My name is Dusty Horwitt, and I am a Public Lands Analyst at Environmental Working Group (EWG), a nonprofit research and advocacy organization based in Washington, DC, and Oakland, California. I thank the members of the subcommittee for this opportunity to testify.

The Washington Post recently reported that China plans to spend \$50 billion to build 32 nuclear power plants by the year 2020. Some experts predict that China may need 200 or even 300 plants by 2050. And China is hardly alone in its desire to increase the use of nuclear power.

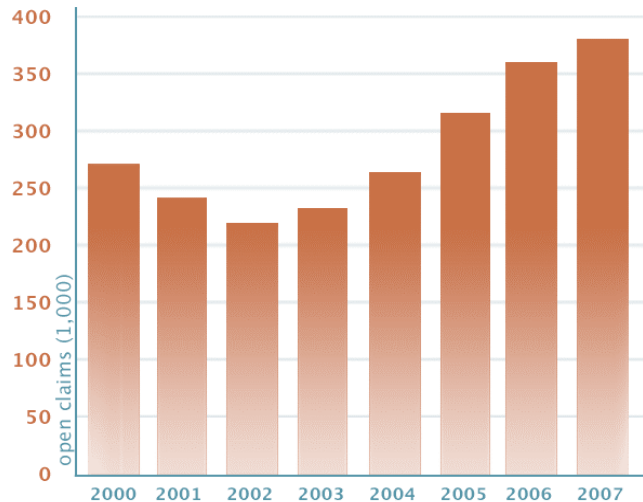
At first glance, this issue would appear to have little to do with today's hearing on reforming the Mining Law of 1872. But there's a land rush in the West for mining claims and it's driven by the sky-high price of uranium and other metals caused by speculative demand from China, the United States and players around the globe.

Today, in the world of U.S. mining law, speculative Chinese demand for nuclear fuel has more influence over the fate of mining in the American West than the people who work and live there. Short of buying out the claims or other congressional intervention, the federal government interprets mining law as providing virtually no way to stop uranium or other hard rock mining, even when it is in plain view of national parks such as the Grand Canyon, once a claim is staked.

For the last several years, the Environmental Working Group has analyzed mining claims on federal land, using computerized data provided by the Bureau of Land Management. Our work has been reported in dozens of news outlets including the *Albuquerque Journal*, *Arizona Republic*, *Fresno Bee*, *Denver Post*, and *Seattle Post-Intelligencer* (see attachment #1 for full list).

Mr. Chairman, what we have found is a frenzy of claim staking that is escalating each day and threatens a crisis for the Grand Canyon, where there has been an explosion of uranium mining claims. A mining claim gives the claim holder the right to mine on federal land.

Active Mining Claims Increased More than 80% since January 2003



Our research shows that in 12 Western states, the total number of active mining claims has increased from 207,540 in January 2003 to 376,493 in July 2007, a rise of more than 80 percent. Over an eight-month period, from last September to this May, the BLM recorded more than 50,000 new mining claims. Current claims cover an estimated 9.3 million acres.

Source: Environmental Working Group analysis of Bureau of Land Management's LR2000 Database, July 2007 download.

We have seen this increase in every Western state, with claims for all metals increasing by 50 percent or more in Arizona, Colorado, New Mexico, Nevada, South Dakota, Utah and Wyoming.

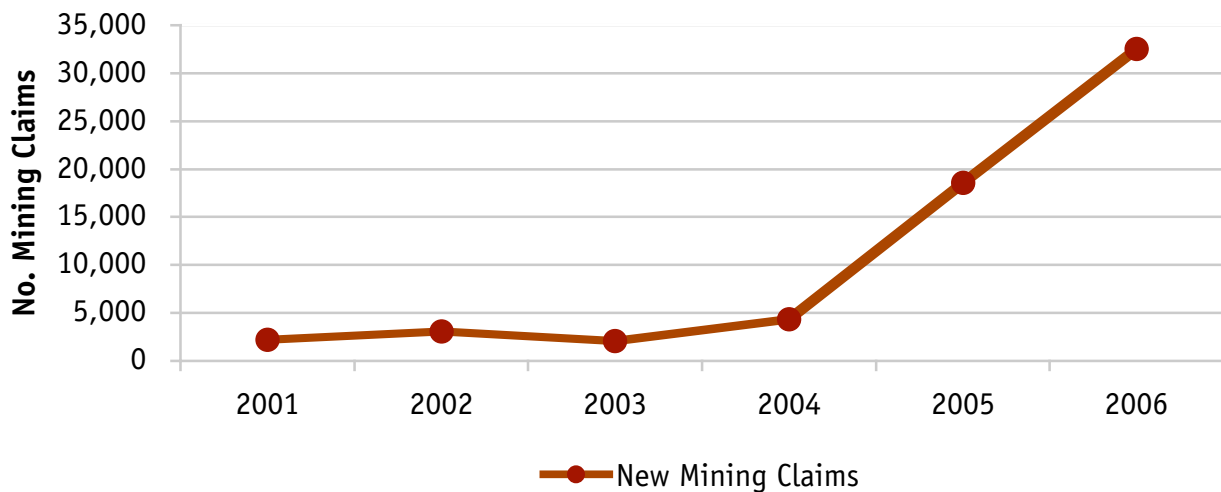
Mining claims have increased in every one of twelve Western states.

State	Claims active as of January 2003	Claims active as of July 2007	Percent Increase
Arizona	22,711	40,670	79%
California	18,981	22,494	19%
Colorado	5,430	18,391	239%
Idaho	10,598	13,013	23%
Montana	10,554	12,779	21%
New Mexico	7,550	11,348	50%
Nevada	100,972	179,773	78%
Oregon	5,088	6,087	20%
South Dakota	1,030	2,340	127%
Utah	8,723	28,968	232%
Washington	2,193	2,492	14%
Wyoming	13,710	38,138	178%
12 state total	207,540	376,493	81%

Source: Environmental Working Group analysis of Bureau of Land Management's LR2000 Database, July 2007 download.

Many of the new claims are for uranium. The BLM reports that the estimated number of uranium claims staked in Colorado, New Mexico, Utah and Wyoming combined increased from less than 4,300 in fiscal year 2004 to more than 32,000 in fiscal year 2006.

Uranium Mining Claims Skyrocket in Colorado, New Mexico, Utah, and Wyoming



Source: Bureau of Land Management

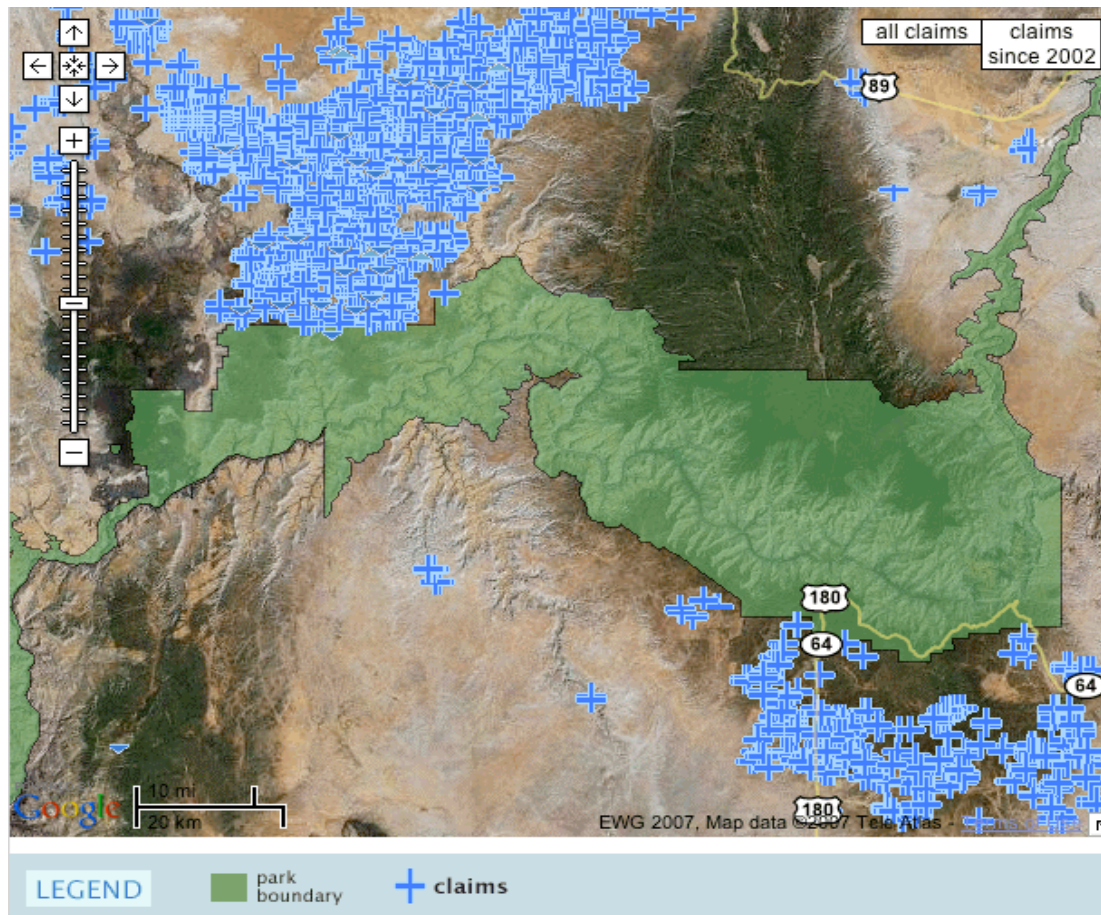
Many of these claims are being staked by foreign mining companies and speculators who could mine the land or sell to multinational corporations who often extract minerals using techniques involving toxic chemicals, giant earthmoving equipment, sprawling road networks and vast quantities of water where water is a precious, scarce resource.

This land rush is sweeping the West despite the remnants of an earlier generation of uranium mines that have left a legacy of death and disease, despite the fact that mining as a whole is our leading source of toxic pollution and despite the fact that mining claims give companies a property right that effectively supercedes efforts to protect the environment and preserve our American heritage.

In the face of a landslide of global economic forces that threaten many of our most valued natural places and the health of people all across the American West, the 1872 Mining Law offers the legal equivalent of a pick and a shovel.

The following photo images were produced by EWG by linking federal data on mining claims with Google Earth satellite photos of national parks. They show the clear threats to just a handful of our most treasured national parks and depict areas that bear the legacy of past uranium mining pollution. They remind us that mining impacts can spread across great distances carried by wind and water.

815 Mining Claims within 5 Miles of Grand Canyon National Park, 805 Staked Since January 2003



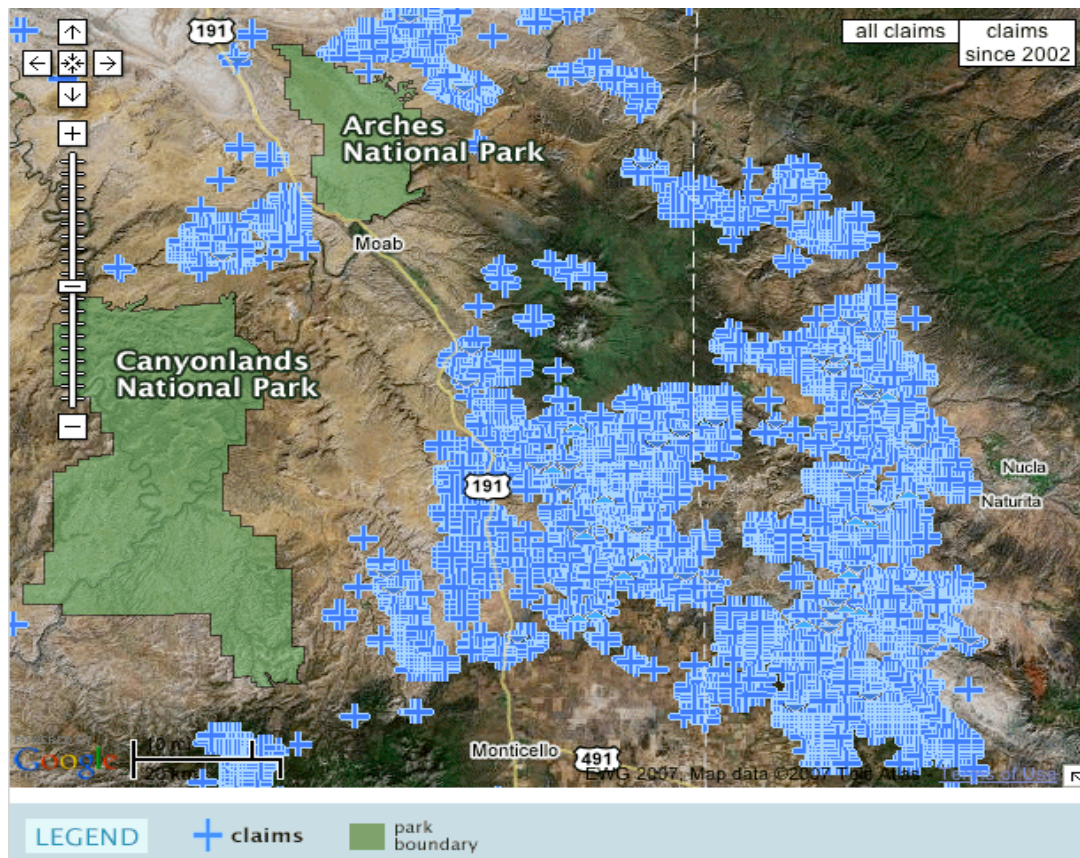
Source: Environmental Working Group analysis of Bureau of Land Management's LR2000 Database, July 2007 download.

This satellite image of Grand Canyon National Park from our website shows mining claims featured in blue, clustered on both the north and south rims. We found that as of July, mining interests hold 815 claims within five miles of the Park, 805 of them staked since January 2003. Many of these claims are for uranium.

A Canadian company, Quaterra Resources, has already proposed to drill exploratory holes for uranium on claims just north of the Canyon. The operation would include a helicopter pad to carry supplies in and out. The idea of uranium mining near America's greatest national treasure is troubling and the thought of helicopter flights of radioactive material in an area already crisscrossed by dozens of tourist flyovers a day is even more disconcerting.

The same explosion of claims has occurred in the canyon country of southern Utah and Colorado.

869 Mining Claims within 5 Miles of Arches National Park, 864 Staked Since January 2003; 233 Mining Claims within 5 Miles of Canyonlands National Park, All Staked Since January 2003



Source: Environmental Working Group analysis of Bureau of Land Management's LR2000 Database, July 2007 download.

Many of these claims are also for uranium. Arches National Park in Utah has 869 claims within five miles of its boundary, 864 of them staked since January 2003. Nearby, Canyonlands National Park has 233 claims within five miles, all staked since January 2003. Many of the claims on the Colorado side are near lands treasured for their scenic and recreational values.

The Legacy of Uranium Mining

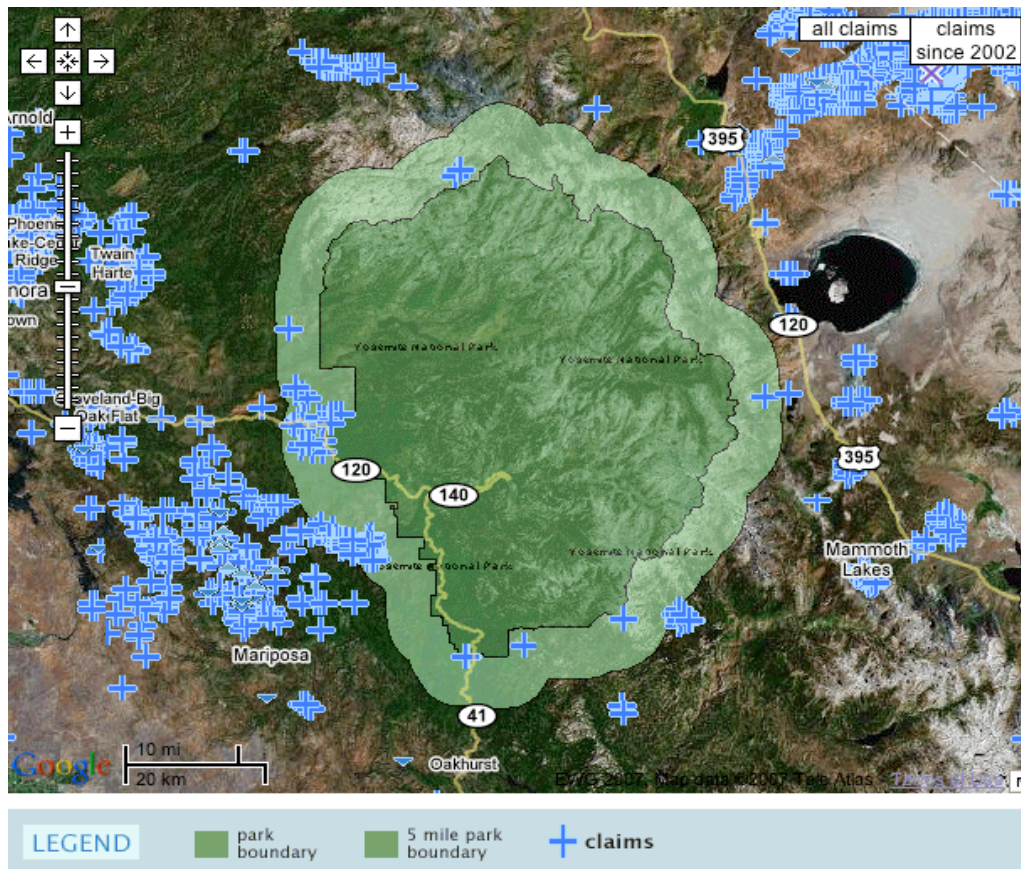
Near the top left of the map is the town of Moab, Utah. The Department of Energy has begun a decade-long project to clean up 12 million tons of radioactive uranium mine waste near Moab that have contaminated land near the Colorado River. The waste is a threat that could pollute drinking water for millions. Cleanup estimates range between \$412 million and \$697 million.

You'll also note the town of Monticello, Utah at the far south of the map. Colorado's Grand Junction *Daily Sentinel* recently reported that residents of Monticello claim unusually high rates of cancer they believe were caused by a now-closed uranium mill.

The *Los Angeles Times* reported in a landmark series last year how uranium mining has left a legacy of cancer and a degenerative disease known as Navajo Neuropathy on the Navajo reservation that includes Arizona, Colorado, Utah and New Mexico.

The last image shows Yosemite National Park in California.

83 Claims within 5 Miles of Yosemite National Park, 50 Staked Since January 2003



Source: Environmental Working Group analysis of Bureau of Land Management's LR2000 Database, July 2007 download.

Here, there are 83 claims within five miles of the Park, 50 of them staked in the last four years. You can see the five-mile boundary in a lighter shade of green. And there are still more national parks and monuments that face threats from mining.

National Parks and Monuments with mining claims within five miles include:

Park or Monument	Active Claims	Claims Staked Since Jan. 2003
Death Valley National Park, CA and NV	1,693	503
Arches National Park, UT	869	864
Grand Canyon National Park, AZ	815	805
Joshua Tree National Park, CA	409	117
Canyonlands National Park, UT	233	233
Mt. Saint Helens National Volcanic Monument, WA	204	105
Capitol Reef National Park, UT	161	151
Great Basin National Park, NV	154	18
Yosemite National Park, CA	83	50
Zion National Park, UT	66	54
Yellowstone National Park, ID, MT, WY	21	1

Without proper safeguards for our public lands, protecting national parks from these claims can be very costly. In 1996, the federal government paid \$65 million to buy out patented claims just three miles from Yellowstone National Park that would have been the site of a major gold mine. The mine would have been located at the headwaters of three streams that flow into the park.

Mining is the Nation's Leading Source of Toxic Pollution

The increase in claims including those near our most treasured places is cause for concern given the significant impacts of mining for uranium and other metals. According to the U.S. Environmental Protection Agency's Toxics Release Inventory (TRI), metal mining is the leading source of toxic pollution in the United States – a distinction the industry has held for eight consecutive years (1998-2005), ever since mining was added to the TRI list.

The EPA has also reported that more than 40 percent of Western watersheds have mining contamination in their headwaters. The total cost of cleaning up metal mining sites throughout the West is an estimated \$32 billion or more.

Unearthing Pollution

The extraordinary pollution generated by metal mining is caused largely by digging and the

sheer size of contemporary mining operations. Modern mining practices are a far cry from the use of mules and pick axes that were common during the late 1800s when the Mining Law was written. In part, the techniques have changed because concentrated deposits of gold and other metals are largely gone. Mining companies now excavate "mineralized deposits," or ore that contains microscopic amounts of precious metal.

To extract the amount of ore they desire, modern mining operations typically have to remove enormous quantities of rock and dirt with heavy, earthmoving equipment. The holes they dig can exceed one mile in diameter and 1,000 feet in depth.

Mining companies commonly use cyanide or other chemicals to extract metal from tons of low-grade ore excavated in modern mining operations. In this process, known as heap leaching, companies excavate huge quantities of rock and earth filled with microscopic particles of precious metal. They place the earth on a plastic-lined heap leach pad and then spray or drip cyanide over the earth. As the cyanide trickles through the heap, it binds to the precious metal. The mining company then collects the metal from the cyanide solution in liquid-filled pits at the base of the rock pile

Cyanide and other chemicals can poison water, land and wildlife near mines, but most mining pollution results from digging. When mining companies dig for metals, they expose sulfur-laden rock to air and water, resulting in the formation of sulfuric acid. The acid often drains away from the mine site into ground or surface water where it makes the water so acidic that fish and other organisms cannot survive. This phenomenon is known as acid mine drainage. At California's abandoned Iron Mountain mine, for instance, scientists discovered the world's most acidic water with a pH of -3.6, 10,000 times more acidic than battery acid.

The acid itself is not the only problem. When the acid comes in contact with rock, it dissolves toxic metals including arsenic, cadmium, lead and mercury, and carries those metals into water sources. Acid mine drainage from the Iron Mountain Mine, for example, has periodically released harmful levels of heavy metals into the Sacramento River and has virtually eliminated aquatic life in several nearby creeks. Roughly 70,000 people use surface water within three miles of Iron Mountain Mine as their source of drinking water. Acid mine drainage laden with heavy metals is a problem throughout the West from past and present mines.

Once it begins, such pollution is very difficult to stop. For example, Roman metal mines are still draining acid in Europe. Closer to home, the EPA wrote that Newmont's Phoenix proposal in Nevada "will likely create a perpetual and significant acid mine drainage problem requiring mitigation for hundreds of years." Furthermore, reclaiming acid draining mines after mining ceases is a huge financial liability. That state of New Mexico estimates that one copper mine will cost more than a quarter billion dollars to clean up.

Spreading Pollution

It is important to understand that mining pollution often spreads far beyond the site of the mine. For example, in Summitville, Colorado in 1992 a spill of cyanide and heavy metal-laden water killed some 20 miles of the Alamosa River. The area is now a Superfund Site. Taxpayers have already spent \$190 million to clean up the area and will likely be tapped for millions more in the future.

Another example of extended mining impacts is the plume of contaminated groundwater beneath the Bingham Canyon mine. The EPA reports that the plume extends for 72 square miles. The mine is part of the Kennecott South site about 25 miles southwest of Salt Lake City that has been proposed for Superfund status. The mining watchdog group, Earthworks, estimated that the Bingham Canyon mine will leave taxpayers with the largest liability of any mine in the United States: more than \$1.3 billion.

A third example comes from Arizona in 2006, where dust from a 400-foot-high tailings pile at Phelps Dodge's Sierrita Mine spread over a two- to four-and-a-half-mile radius, coating homes and lawns in nearby Green Valley with white powder. The company said it sampled the tailings several years earlier and found no cause for concern but the state cited the company for failing to prevent the dust from blowing onto homes.

Residents of Crested Butte, Colorado, Boise, Idaho and other towns, are currently facing significant mine proposals that could threaten local water supplies and other resources.

The threat we face today, however, is more serious than in years past. The specter of uranium mining operations is looming over the Grand Canyon and many other treasured national parks and monuments, and the 1872 Mining Law provides inadequate tools to control it. Indeed, the 1872 Mining Law does the opposite: it directly facilitates the problem by granting property rights with huge speculative incentives for staking claims, providing weak standards for protecting water, and creating a potential bonanza with no royalty payments if the claim pans out. Under current law, speculative plans to increase the use of uranium by nuclear industry officials and political leaders around the globe can place our public lands at risk and leave Westerners and federal land managers at the mercy of multinational mining companies.

When mining threatens to scar if not destroy places like the Grand Canyon, it is time to draw the line. We no longer need to subsidize the mining industry, particularly when other extractive industries operate on our public lands without the mining industry's special treatment and particularly when our national parks and monuments are at risk. We need reform, and we need it now.

HR2262 Would Bring Much-Needed Improvements to Mining Law

We recommend a number of changes to mining law, several of which parallel provisions contained in HR2262.

- **Royalty payments:** Mining companies should pay taxpayers a royalty on the value of the metal they extract. Currently, mining companies pay no royalty unlike every other extractive industry operating on federal land.
- **Abandoned mine cleanup fund:** Cleaning up abandoned mines is estimated to cost \$32 billion or more. Congress should create a fund to accomplish this important task.
- **Tougher standards for mine cleanup:** Mining companies should be required to prevent perpetual water contamination and put up enough money before operations begin to cover the full costs of cleanup should the company go bankrupt or abandon the site.
- **An end to mining's tax break:** In addition to being able to mine royalty-free, mining companies can claim a tax break on up to 22 percent of the income that they make off hardrock minerals mined on federal public lands. Congress should close this loophole.
- **No more land giveaways:** For years, mining interests have been able to buy claimed land from the federal government for \$2.50 or \$5.00 an acre. Since 1994, Congress has placed a moratorium on these giveaways that must be renewed annually. Congress should enact a permanent ban.

Mining provides materials essential to our economy, but it must be conducted in a way that strikes a balance with other values. We look forward to working with the subcommittee to ensure that mining on our public lands is conducted in a responsible manner.

Thank you for this opportunity to testify.

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Attachment #1

Coverage of EWG Mining Research Has Appeared in the Following Outlets:

ABC News
Albuquerque Journal
Argus Leader (Sioux Falls, South Dakota)
Arizona Daily Star (Tucson)
Arizona Republic (Phoenix)
Ashville Citizen-Times (North Carolina)
Associated Press
Billings Gazette
Boston Globe
Christian Science Monitor
The Daily News (Los Angeles)
Duluth News-Tribune (Minnesota)
Denver Post
Deseret Morning News (Salt Lake City)
Eugene (Oregon) Register-Guard
Fresno Bee (California)
The Gazette (Colorado Springs)
Houston Chronicle
Idaho Statesman (Boise)
International Herald-Tribune
Las Vegas Review-Journal
Modesto Bee (California)
New York Times
Philadelphia Inquirer
The Press-Enterprise (Riverside, California)
The Record (Stockton, California)
Reno Gazette-Journal (Nevada)
Rocky Mountain News (Denver)
Sacramento Bee
Salt Lake Tribune
San Francisco Chronicle
Seattle Post-Intelligencer
Spokesman-Review (Spokane, Washington)
The Star-Ledger (Newark, NJ)
St. Louis Post-Dispatch
St. Paul Pioneer Press (Minnesota)
St. Petersburg Times (Florida)
U.S. News & World Report
Ventura County Star (California)
Washington Post

Attachment #2

At the request of the Committee on Natural Resources Subcommittee on Energy and Minerals, we have included tables that show the distribution of mining claims among Congressional Districts.

Congressional districts with more than 1,000 mining claims, ranked by number of claims per district.

Representative	State	Number of mining claims	Estimated Acreage
Rep. Dean Heller	NV	168,906	3,677,297
Rep. Barbara Cubin	WY	38,094	941,652
Rep. Jim Matheson	UT	19,988	553,046
Rep. Rick Renzi	AZ	18,882	490,812
Rep. John T. Salazar	CO	14,188	301,591
Rep. Dennis R. Rehberg	MT	12,765	288,427
Rep. Trent Franks	AZ	11,601	294,365
Rep. Bill Sali	ID	7,441	185,147
Rep. Stevan Pearce	NM	6,834	182,949
Rep. Michael K. Simpson	ID	5,572	124,865
Rep. Gabrielle Giffords	AZ	5,260	114,002
Rep. Chris Cannon	UT	5,199	235,060
Rep. John T. Doolittle	CA	4,706	180,745
Rep. Jerry Lewis	CA	4,701	146,100
Rep. Howard P. Buck McKeon	CA	4,698	137,995
Rep. Raul M. Grijalva	AZ	4,322	125,059
Rep. Greg Walden	OR	3,997	130,103
Rep. Tom Udall	NM	3,702	83,466
Rep. Jon C. Porter	NV	3,335	187,250
Rep. Rob Bishop	UT	3,187	108,575
Rep. Stephanie Herseth Sandlin	SD	2,346	51,544
Rep. Wally Herger	CA	2,133	80,018
Rep. Peter A. DeFazio	OR	1,895	75,799
Rep. Doug Lamborn	CO	1,555	45,455
Rep. Bob Filner	CA	1,520	32,316
Rep. Cathy McMorris Rodgers	WA	1,385	28,578
Rep. Kevin McCarthy	CA	1,268	55,475
Rep. Mark Udall	CO	1,197	33,291

Members of House Natural Resources Committee with mining claims in their districts ranked by number of claims.

District	State	Number of mining claims	Estimated Acreage
Rep. Dean Heller	NV	168,906	3,677,297
Rep. Bill Sali	ID	7,441	185,147
Rep. Stevan Pearce	NM	6,834	182,949
Rep. Chris Cannon	UT	5,199	235,060
Rep. Raul M. Grijalva	AZ	4,322	125,059
Rep. Rob Bishop	UT	3,187	108,575
Rep. Stephanie Herseth Sandlin	SD	2,346	51,544
Rep. Peter A. DeFazio	OR	1,895	75,799
Rep. Doug Lamborn	CO	1,555	45,455
Rep. Cathy McMorris Rodgers	WA	1,385	28,578
Rep. Kevin McCarthy	CA	1,268	55,475
Rep. Mark Udall	CO	1,197	33,291
Rep. Jeff Flake	AZ	51	1,055
Rep. Elton Gallegly	CA	41	1,042
Rep. Thomas G. Tancredo	CO	22	389
Rep. Jim Costa	CA	21	1,045