

Hardrock Mining on Federal Lands

The production of hardrock minerals on federal lands is governed by the General Mining Law of 1872. Under the law, companies are not required to compensate taxpayers a fair market rate for the use of federal lands or the sale of publicly owned minerals extracted from them, including gold, silver, copper, and uranium, among others.

This approach not only differs from federal management of oil, gas, and coal development, it also prevents accountability regarding the volume and value of public resources extracted from federal lands. Without reform, mining companies will continue profiting from the precious metals and other hardrock minerals removed from federal lands every year worth billions of dollars without generating any return from their sale for taxpayers.

A 147 Year-Old Law

Congress enacted the General Mining Law of 1872 to encourage settlement and economic development in the West. The law allowed any citizen to claim the rights to extract and sell valuable minerals found on federal lands not otherwise closed to mining. Over time, Congress instituted separate systems for managing the development of specific resources on federal lands, including energy resources like oil, gas, and coal, and basic mineral materials like sand, gravel, and stone. Private interests are now required to compensate taxpayers for the value of these resources, through a royalty or direct purchase contract.

The hardrock minerals not covered by subsequent laws, known as "locatable minerals," are still subject to the 1872 Mining Law. There is no comprehensive list or definition, but these minerals include gold, silver, copper, uranium, lead, zinc, barite, molybdenum, and fluorspar, among others. For their development, the Department of the Interior (DOI) charges companies a set of fees for establishing and maintaining a mineral claim but does not recover the value of the extracted minerals. These fees include a minimal location fee currently set at \$37/claim, a one-time processing fee of \$20/claim, and a maintenance fee charged to individuals or companies with 11 or more claims currently set at \$155/claim, or \$155/20 acres for placer claims.

Taxpayers Lose Billions on Gold, Silver, and More

According to annual budget justifications, the DOI has collected approximately \$620 million in mineral fees over the last decade (fiscal years 2008-2017). In those same years, the limited data available indicate that more than 870



metric tons of gold, worth approximately \$35 billion, was extracted from federal lands in Nevada. Taxpayers received nothing from the sale of this gold. Had a royalty of just five percent been imposed, DOI could have collected nearly \$1.6 billion on behalf of taxpayers.

Hardrock gold mine on federal land in Nevada.

Source: GAO-16-165

The DOI does not track the quantity or value of gold extracted from federal land in other states, or the production of any other hardrock mineral, rendering it impossible to estimate the total value of minerals taken from taxpayers without compensation.

In addition to avoiding royalties, hardrock mining companies are allowed to reduce their federal taxes through the Percentage Depletion Allowance and the ability to expense (write off) exploration and development costs. Together these tax breaks represent a subsidy to the industry worth at least \$120 million per year, according to the Joint Committee on Taxation (JCT).

On the other side of the ledger, federal agencies continue to spend billions of dollars to reclaim hardrock mine sites on federal land that have been abandoned. The 1872 Mining Law provided only a skeletal structure for federal management of hardrock mining and did not include provisions requiring the clean-up of federal land after mining activities cease. DOI adopted regulations in 1981 to impose reclamation (clean-up) requirements on mine operators, but they failed to prevent further mine abandonments and DOI has struggled to secure adequate financial assurances to guarantee future reclamation.

Abandoned mine lands are often hazardous and sometimes toxic. The DOI, EPA, and other federal agencies reclaim these sites to mitigate threats to human health and safety. In 2011, the Government Accountability Office (GAO) reported that four federal agencies had spent \$2.6 billion to reclaim abandoned hardrock mines on federal lands between 1997 and 2008. That work addressed only a fraction of sites in need of reclamation and through these agencies, taxpayers continue to spend hundreds of millions of dollars a year to clean up liabilities created by the hardrock mining industry.

Conclusion

The General Mining Law of 1872 helped settle the American West, but its governance of hardrock mining on federal lands has cost taxpayers tens of billions of dollars in lost revenue, and billions more in mine reclamation spending. The law's enduring authority, coupled with lucrative tax breaks represents a continuous drain on the federal budget and a taxpayer-funded support for the hardrock mining industry.

For more information see <http://www.taxpayer.net/hardrock>