

**Testimony submitted to the:
HOUSE COMMITTEE ON NATURAL RESOURCES
Subcommittee on Energy and Mineral Resources
“Clean Energy Mineral Reform Act of 2022”
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Submitted by: Jeffrey Stiffarm, Fort Belknap Indian Community President

I. Introduction

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify on the urgent need for mining reform. My name is Jeffrey Stiffarm, and I am the President of the Fort Belknap Indian Community in Central Montana. I'd like to talk a little about how hard rock mining has devastated the Fort Belknap Reservation to illustrate the vital need for better mining laws to prevent what happened to my people.

II. HISTORY OF MINING IN THE LITTLE ROCKY MOUNTAINS

The Fort Belknap Indian Reservation is home to the Gros Ventre and Assiniboine Tribes. Our Reservation was established and set aside for the Tribes' use by an Act of Congress in 1888.¹ At that time, the Tribes received assurances from the United States government that we would retain our rights to all water necessary to fulfill the purposes of the Reservation, including waters originating in the Little Rocky Mountains that Tribal members used for irrigation, domestic supplies, and other purposes.²

The original Fort Belknap Reservation included the Little Rocky Mountains, which to this day are the headwaters for much of our water resources. The Little Rocky Mountains are considered sacred by Tribal members, and were traditionally used by the Tribes for hunting, fishing, cultural, and spiritual purposes. This land, and especially the Little Rockies, are the foundation of our cultural practices, including fasting, prayer, and spiritual communion as well as home to many of our sacred sites and cultural practices.

But when gold was discovered in the Little Rockies in the 1880s, the federal government pressured our Tribes to cede the gold-bearing areas of the Reservation to the United States. Congress carved out the Little Rocky Mountains from the Reservation's boundaries in 1896.³

Then in the late 1970s, new mining technologies and a sharp rise in the price of gold resulted in the development of open pit mining operations at the Zortman and Landusky mines in the Little Rockies.⁴ These modern mines were operated under BLM-approved Plans of Operations from 1981-2003.⁵ The mines used cyanide solution to extract microscopic particles of gold from the

ore. During that time, state and federal agencies approved numerous expansions of the mines. At its largest, the mining complex covered over 1,200 acres.

III. THE CONTAMINATION

The Zortman and Landusky mine sites are surrounded on three sides by the Fort Belknap Reservation and sit at the headwaters for many creeks, that eventually flow through the Reservation.

Heap leaching at the Zortman-Landusky mines exposed significant portions of rock containing sulfides to water and air, which resulted in acid mine drainage. Among other impacts, mining operations at Zortman-Landusky diverted stream flows away from the Reservation and contaminated multiple streams running onto the Reservation.

In fact, the Fort Belknap Indian Community is facing permanent surface and groundwater contamination and continues to suffer from multiple devastating and lasting harms to the Tribes' beneficial uses, including impairment of drinking water, fish and wildlife habitat, recreation, agricultural, and industrial uses.⁶ Acid mine drainage has likewise resulted in public health risks and continues to threaten the Tribes' powwow grounds, ceremonial and sacred sites, including other areas of cultural significance.

IV. CONTINUED CONTAMINATION AND THREATS FROM NEW MINING

The mining stopped, but acid mine drainage and other contaminants such as cyanide, selenium and nitrates from the mines continues to pollute the water surrounding the mines. As stated by the U.S. District Court for Montana, “[i]t is undisputed that the Zortman-Landusky mines have devastated portions of the Little Rockies, and will have effects on the surrounding area, including the Fort Belknap Reservation, for generations. That devastation, and the resulting impact on tribal culture, cannot be overstated.”⁷

After the mine operator declared bankruptcy at Zortman-Landusky, the mine was designated a CERCLA site in the early 2000's.⁸ State and federal agencies contributed tens of millions of dollars to reclamation and water treatment at the site.⁹

In the midst of this toxic legacy, mining interests continue to target the area. Just last year, we were forced to challenge the issuance of a mining exploration license upstream from the Reservation by a mining company who was recently cited for exploring without a permit.¹⁰ And while the BLM has temporarily withdrawn certain federal public lands in the Little Rockies from new mining, a recent 2-day lapse in that protection resulted in several new mining claims being

staked within the Zortman Landusky Reclamation Area¹¹ – jeopardizing the enormous investment in existing and ongoing reclamation work.

This is a public safety threat of the highest magnitude. We must and will remain vigilant to protect our land and our people from the harmful impacts of hard rock mining. I should add we spend significant time and resources working to protect our communities and our natural and cultural resources despite insufficient public safety funding from the Bureau of Indian Affairs.

Future mining at the site not only threatens the health and welfare of tribal members, it threatens to further desecrate sacred tribal land, including the potential to disturb the graves of relatives and ancestors of tribal members.

V. CLOSING THOUGHTS

You have heard our story and I ask you to consider how you would feel if this was going on in your communities. How hard would you work to make essential updates to hard rock mining laws and regulations if your water were flowing orange from acid mine drainage?

Reform of U.S. mining laws must include meaningful consultation with Tribes and also the ability to say “no” to mines that would harm other important land uses.

The Fort Belknap Tribes appreciate the opportunity to testify today on urgency of reforming mining laws and regulations.

VI. PRESIDENT STIFFARM’S PRESS QUOTE IN FULL

The Fort Belknap Indian Community Supports House Natural Resources Chairman Grijalva’s Clean Energy Minerals Reform Act. Reforming the Mining Law of 1872 is long overdue. The Fort Belknap Indian Community has been directly affected by mining atrocities and to this day, suffers the effects and is having to react and remediate the damage allowed by outdated and loosely translated mining laws. The Fort Belknap Indian Community is facing permanent surface and groundwater contamination from decades of hard rock mining in the Little Rocky Mountains on and adjacent to the Fort Belknap Reservation and continues to suffer from multiple devastating and lasting harms to the Tribes’ beneficial uses, including impairment of drinking water, fish and wildlife habitat, recreation, agricultural, and industrial uses. Acid mine drainage has likewise resulted in public health risks and continues to threaten the Tribes’ powwow grounds, ceremonial and sacred sites, including other areas of cultural significance. Negative environmental impacts are exacerbated by these outdated laws. All people, all governments, all environmental forums will benefit by updated and standardized laws. The Fort Belknap Indian Community is very supportive of the new legislation that helps to protect our sacred sites and requires meaningful tribal consultation prior to permitting activities that impacts our lands.

¹ 25 Stat. 113 (May 1, 1888).

² See Gros Ventre Tribe v. United States, 469 F.3d 801, 804-05 (9th Cir. 2006); see also Winters v. United States, 207 U.S. 564, 567, 576 (1908) (recognizing Tribes' right to all waters flowing to and entering Reservation lands, "undiminished in quantity and undeteriorated in quality").

³ 29 Stat. 350 (1896).

⁴ See Gros Ventre Tribe, 469 F.3d at 805.

⁵ U.S. Bureau of Land Management, Action Memorandum for Water Management at the Zortman And Landusky Mines, Non Time-Critical Removal Actions, Malta Field Office, Bureau of Land Management, Phillips County, Montana. September 2006.

⁶ Montana Department of Environmental Quality, Landusky Metals Total Maximum Daily Loads and Framework Water Quality Improvement Plan, March 2012, Available at:

<https://deq.mt.gov/files/water/wqpb/CWAIC/TMDL/M31-TMDL-01a.pdf>

⁷ Gros Ventre Tribe, et al. v. United States, et al., No. CV 00-69-M-DWM, slip op. at 12 (D. Mont. June 28, 2004).

⁸ U.S. Bureau of Land Management, Action Memorandum for Zortman and Landusky Mines Time-Critical Removal, Operable Unit 1 & Operable Unit 2, Malta Field Office, June 2004.

⁹ U.S. Department of Interior, Bureau of Land Management, Proposed Zortman-landusky Withdrawal, April 2022.

¹⁰ See Montana DEQ, Violation Letter #VLHRM20220330-00071 to Luke Ployhar/Blue Arc LLC, April 1, 2022 (The Montana Department of Environmental Quality recently issued notices of violations against Luke Ployhar/Blue Arc LLC for allegedly conducting exploration and mining activities at seven locations in Township 25N, Range 25E, Section 7 without a permit. The disturbance associated with these unpermitted and unbonded mining activities contributes further to the degradation of the reclamation efforts in the Zortman Landusky Reclamation Area.)

¹¹ Specifically, reclamation efforts within the Zortman-Landusky Reclamation Area were jeopardized by the Department of Interior's failure to maintain the mineral withdrawal protections between the expiration of PLO 7464 on October 4, 2020 and the segregation of lands under this proposed mineral withdrawal on October 7, 2020. This 48-hour lapse in protection allowed 10 mining claims to be staked on October 5, 2020 by Luke Ployhar/Blue Arc LLC on BLM lands within the mineral withdrawal boundaries.