



Responses from Trout Unlimited for an oversight hearing on the General Mining Law of 1872
The Toxic Legacy of the Mining Law of 1872

Formal Responses to Questions from Representative Diana DeGette

House Natural Resources Committee, Subcommittee on Energy and Mineral Resources
July 27, 2021.

1. Could you tell us please about some of the challenges we see with mining in Colorado?

The impacts from abandoned mines on Colorado, and numerous states across the West, include metal loading and contamination of adjacent, or downstream, water bodies from draining or leaching mine sites. Exposed acidic, pyritic and/or sulfuric metal-rich mine wastes at abandoned mine land (AML) sites can also pose a threat to the site's surrounding ecosystems and site visitors.

Further, these sites are notoriously dangerous for human visitors as abandoned mines often contain unstable soil, unsafe roofs and ladders, deadly gasses, and dangerous explosives. While Superfund helps to address some of the worst sites, without Good Samaritan legislation and dedicated funding, many of these hazardous sites will not be reclaimed and will continue to pollute the environment.

2. What are your thoughts on the way Colorado regulates active mines?

Colorado has taken active steps to modernize its mining laws and regulations. Active hardrock mining in Colorado is managed by the State Division of Reclamation, Mining and Safety. Division staff review mining and reclamation permit applications and inspect mining operations to make sure that reclamation plans are being followed; thereby reducing the opportunity for widespread mine impacts from active sites.

Bonding of active mines is completed by outside, third party/financial warrantors (i.e., self-bonding is not allowed) and the amount of that bond is determined by the Division in a transparent, regularly updated, approach. Additionally, new mines which propose perpetual water treatment as part of their operation or reclamation plan are not permitted.

3. Do you think Colorado's experience with active mines offers lessons we should be applying to our national mining laws?

Colorado has both a strong regulatory framework and an active mining industry. Similarly, as Congress considers changes to federal mining laws, it is important to include input from all stakeholders -- including conservation interests, the mining industry and state and local governments -- to craft legislation that provides strong environmental protection while also supporting responsible domestic mining.

4. How would you describe the current situation with abandoned mines in Colorado?

Abandoned mines are one of the largest sources of water pollution across the West. The contamination of water resources that these sites cause is becoming more relevant than ever as our Western states deal with drought, water shortages and population growth.

One example of where historic mining intersects development is on the Blue River in Summit County, Colorado where the EPA is working to address impacts from the Puzzle Mine, which continuously drains orange, acidic, metal-laden water literally into people's backyards. Several years ago, an unexpected release from this site turned the Blue River orange all the way down to Dillon Reservoir.

Many entities want to help clean up abandoned mines, including NGOs like Trout Unlimited, watershed groups, the mining industry, and state agencies. However, these efforts are stymied by liability that stems from the Clean Water Act and CERCLA. To tackle this problem at scale, we need increased funding, as well as federal legislation that provides targeted liability protections so that stakeholders can work together to clean up these abandoned mines where there is no responsible party to take on or fund the cleanup.

5. Do abandoned mines pose any kind of a threat to Denver or similar cities?

Yes, they can. Because of the potential impact they have on surface and groundwater quality, abandoned mines can pose a particular threat to the quality of downstream drinking water resources.

Although I can assume this is a threat to multiple communities across the West, I am most familiar with the watersheds in my backyard where we see this issue. For example, TU has been working with multiple partners for nearly a decade in the headwaters of Clear Creek to address AML impacts on water resources and downstream drinking water quality in the watershed.

Working in collaboration with federal agencies, the State Division of Reclamation Mining and Safety, private mining companies, local watershed groups and landowners, TU and our partners have reclaimed numerous mine sites in this fragile headwater area; thereby improving habitat for endangered species, facilitating public lands access, and improving environmental conditions. The partner-based approach we have employed in the headwaters of Clear Creek has resulted in significant water quality improvements which benefit the downstream communities and water users which depend on these previously mine-impacted water resources for drinking water supplies.

While significant AML reclamation has been completed, and still continues, throughout Clear Creek, there are other watersheds which provide drinking water resources where there is still beneficial work to complete.

6. Could you please explain the connection between the threats posed by abandoned mines and those posed by wildfires to Denver's water?

By burning the existing vegetation, wildfires increase the opportunity for mine wastes, and additional sediment, to mobilize downstream. Without the vegetation in place, there's nothing to hold sediment on hillsides and promote stability, and so contaminated soils from AML sites have the opportunity to flow downhill and downstream during storm events or spring runoff.

The mobilization of this metal-laden material into downstream water resources can easily pose a risk to drinking water quality.

Further, by removing the surrounding vegetated cover, wildfires visually expose physical hazards present at AML sites. This exposure creates an opportunity for those newly-revealed sites to become more accessible to recreational users. These shafts, stopes, adits, and other mining features are often less physically stable and easier to access than they were with the vegetation in place.

7. Does Colorado charge a royalty or reclamation fee on hardrock mines to help offset mine cleanup costs?

No, Colorado does not charge a royalty or reclamation fee on active hardrock mines to offset AML cleanup costs.

8. If states were to receive money from the federal government for hardrock mine cleanups, what types of activities could be funded or accelerated?

As a long-term partner to Division of Reclamation, Mining and Safety, we see multiple opportunities for partner-based large-scale projects should this funding be made available to the State. By coupling this funding with Good Samaritan legislation, we also see opportunities to scale up current, or proposed, AML projects and tackle more complex sites than we've previously considered.

Further, if NGOs and watershed groups were eligible to receive this funding, we could add capacity to State-partners to make these federal dollars go further. These dollars could be used by the groups and communities that are most directly impacted by AML challenges, thereby empowering these groups to enact local change while also supporting rural economies.

9. Would Colorado benefit from a federal abandoned hardrock mine reclamation program like the one considered in the Bipartisan Infrastructure Framework?

Yes, there are talented, capable groups at the Federal, state, local and NGO level that are qualified and ready to do this work. However, liability concerns limit how much impact these monies will have on the ground. Congress must also pass Good Samaritan legislation to provide targeted liability protections for non-federal entities who did not cause the pollution in the first place, but who want to help clean it up.

These potential program dollars, coupled with Good Samaritan legislation, would allow for continued, and expanded, AML reclamation across the state.