

**Chairman Alan S. Lowenthal**  
**Energy and Mineral Resources Subcommittee Oversight Hearing:**

**“The Toxic Legacy of the Mining Law of 1872”**  
**July 27, 2021**

The Subcommittee on Energy and Mineral Resources will come to order.

The Subcommittee is meeting today to hear testimony on the toxic legacy of the Mining Law of 1872.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member or their designees.

I ask unanimous consent that all other Members’ opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5:00 pm today.

Hearing no objection, so ordered.

Without objection, the Member from Nevada, Representative Amodei, is authorized to question the witnesses in today's hearing.

Without objection, the Chair may also declare a recess subject to the call of the Chair.

Pursuant to Committee Rule 3(L) and the latest guidance from the Attending Physician, anyone present in the hearing room today must wear a mask covering their mouth and nose if they are not fully vaccinated or if they are uncomfortable with informing us of their vaccination status.

It is my hope that with everyone’s cooperation we can protect the safety of Members and staff, and the families they return to at home.

The Committee has masks available for any Member who needs one.

Finally, Members or witnesses experiencing technical problems should inform committee staff immediately.

I'll now begin my opening statement.

The Mining Law of 1872 is one of the most obsolete laws still on the books. It is a complete relic, written for an outdated vision of the American West and a mining industry that no longer exists.

The days of a solitary miner heading out with a pickaxe and a shovel are long behind us. But the 150-year-old law regulating that miner is the very same law expected to hold multi-billion-dollar multi-national corporations accountable on our public lands today.

This is outrageous. According to the latest data, the mining industry pulled over \$82 billion dollars' worth of minerals out of the ground last year, yet they pay no royalties to the American people and our public land managers have little to no say where mining companies can and cannot operate.

There is no other industry that enjoys this same privileged, exalted status on our public lands. Not the coal industry, not the oil and gas industry, not the renewable energy industry, not even outdoor recreation. Not one other industry has the same level of free access to our public lands, which belong to all Americans.

Just yesterday, the Government Accountability Office confirmed in new report that there is no other country in the world that still regulates their mining industry using the same outdated system we use here in the United States. Yet we claim to be a global leader in environmental regulations.

Now yes, there are other environmental protection laws that have been updated since 1872. Mining companies have to comply with the Federal Land Policy and Management Act, known as FLIP-MA, the National Environmental Policy Act, and the Clean Water Act, among others.

But none of those laws help land managers plan for the specific environmental challenges that come with hardrock mining, and the relevant federal regulations at both the Bureau of Land Management and the U.S. Forest Service, haven't been updated in decades.

As the title of today's hearing suggests, the current framework just isn't getting the job done.

There are an estimated half-a-million abandoned hardrock mines littering the country, posing safety threats and polluting thousands of miles of rivers and streams with toxic runoff.

Federal agencies don't even have a full inventory of the all the abandoned mines on the federal lands they manage.

Fifty million gallons of toxic wastewater – the equivalent of 2,000 tanker trucks – flows out of hardrock mining sites every day and forty percent of streams feeding western watersheds are polluted by abandoned hardrock mine runoff.

And as we'll hear from some of our witnesses today, more must be done to protect sacred sites and ensure meaningful consultation with sovereign tribal nations.

We can, and we must, do better.

Not only is this a question of basic fairness for the American people and our environment, but it's how we can build a more sustainable clean energy future.

I think there is a lot of agreement with my colleagues on some of these issues. They are correct that minerals like copper, lithium, and nickel are essential for many renewable energy technologies, including electric vehicles.

I also agree with my colleagues that it is in our national security interest to have more domestic sources of critical minerals, especially given the global dominance of China in this industry.

I want to make it clear today that I am not opposed to new mining. But if we are going to expand domestic mining, it must be done in a way that meets the highest environmental standards, provides a fair return to the American people, and respects tribal sovereignty.

I am proud to support the Biden Administration's recent efforts to help us better strike that balance through their recent Executive Order on supply chains. I am also very supportive of additional federal research into ways we can better recycle and reuse existing minerals, and that we are trying to reduce the overall need for critical minerals in the first place.

Before I recognize Ranking Member Stauber, I want to emphasize that we can find a win-win here as we look to reform the Mining Law of 1872. We'll need the mining industry, tribes, environmental organizations, and Members of Congress from both sides of the aisle to come to the table to get there.

I look forward to working together to find that balance.

With that, I look forward to the testimony from our witnesses, and I now recognize Ranking Member Stauber for his opening statement.