COMMITTEE ON RESOURCES DEMOCRATS

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Extension of Remarks
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An Assault on America's Public Lands
The Hardrock Mining Provisions
of the Resources Committee's Budget Reconciliation Package

Mr. Speaker. Among the many egregious provisions of the Budget Reconciliation recommendations recently approved by the Resources Committee is a raid on America's public lands and our natural resources heritage of almost unparalleled proportions. Included in these recommendations to be considered by the House Budget Committee is the worst kind of "sham reform" of the Mining Law of 1872 that has ever been promoted during my tenure in Congress and if enacted would result in a blazing fire sale of federal lands to domestic and international corporate interests. It is actually a step backward from this 133-year old statute.

Signed into law by President Ulysses S. Grant, the Mining Law of 1872 to this day governs the mining of valuable 'hardrock' minerals such as gold and silver on federal western public lands. The law allows private companies to patent -- purchase -- public lands containing valuable minerals for a mere $2.50 to $5.00 per acre, prices set in 1872, without paying a royalty -- production fee – on the mining of these minerals to the taxpayer. Since 1872, more than $245 billion worth of minerals have been extracted from public lands at these bargain-basement prices. Further, a land area equivalent in size to the state of Connecticut has been sold to the mining industry for less than $5 an acre. Since 1987, when I chaired the Energy and Minerals Subcommittee, I have worked to rewrite this antiquated law, introducing comprehensive reform bills in each successive Congress.

In addition, at my urging, since 1994, and with strong bipartisan support, Congress has placed an annual moratorium on the patenting of mining claim on federal lands. To be clear, bona fide mining can and does take place on unpatented mining claims. There is no indication or proof that this over one decade ban on the patenting of mining claims has diminished in any respect the actual production of hardrock minerals from unpatented mining claims on western public lands. Yet, the Resources Committee's budget reconciliation recommendations would repeal the moratorium and reinstate patenting – the sale – of these public lands. According to the Congressional Budget Office, this provision would only raise an estimated $158 million over the next five years by patenting public lands for $1,000 an acre or fair market value of only the surface of the land -- far from the true value of the minerals underneath. Let me emphasize that. The Resources Committee provision would allow the sale of potentially mineral rich public lands for the mere cost of the surface estate, completely ignoring the value to the underlying mineral estate. In contrast, an 8% royalty on the actual mineral production from mining claims which I have long advocated would raise $350 million in the same time period. Keep in mind that if one mines coal on federal lands, the company is required to pay either an 8% or 12.5% production royalty depending on whether the coal is deep or surface mined. Further, producers of onshore oil and gas on federal lands pay a 12.5% production royalty. But producers of gold, or silver or copper…..zero, zilch, nothing.

The Mining Law of 1872 provisions adopted by the Resources Committee without benefit of public hearing also go far beyond just reinstating the much-maligned "patenting" provision. In fact, the provisions would require the federal government to sell such public lands to potential buyers, whether or not it is in the public interest to do so. Under the Resources Committee legislation, a prospective purchaser would merely (a) file a mining claim or mill site or "blocks of such claims," (b) present evidence of mineral development work performed on the lands they want to buy totaling at least $7,500 per claim, (c) pay for a land survey, and (d) show up to get the deed.

As such, under these provisions anyone, including real estate developers and oil and gas companies, could purchase and develop natural areas that are currently important for recreation, wildlife, fisheries or regional drinking water supplies under the guise of a mining law. This would enable oil and gas companies to purchase the land they currently lease from the federal government. Not coincidently, since most federal oil and gas leases occur on federal lands not protected by this legislation, this provision would put at risk the rents, royalties and bonus payments currently collected annually by the federal government and shared with the States from onshore oil and gas leases which in fiscal year 2004 totaled $1.850 billion.

Further, while the Resources Committee legislation would put off-limits to its provisions certain federal lands, such as National Parks, from location of new mining claims, it does not protect National Forests and Wilderness Study Areas, Areas of Critical Environmental Concern, and other similar areas, even if these other areas have been withdrawn from new mining claim location. For example, there are currently more than 60,000 acres of mining claims in the Tongass National Forest, the largest intact temperate rainforest in the world, which would be available for sale under these provisions. And the Resources Committee provisions do not protect National Parks, Wilderness Areas, and National Wildlife Refuges that have unpatented claims within them. In National Parks alone, there are more than 900 unpatented mining claims that would be subject to sale for $1,000 per acre if these provisions become law.

In addition, the bill does not require that the lands have been used or will be used for mining. As written, purchasing the land need only facilitate sustainable economic development. Since the term is not defined, sustainable economic development could include condominium construction, ski resorts, gaming casinos, name it. A unanimous Supreme Court said in 1979 that "the federal mining law surely was not intended to be a general real estate law. The American Law of Mining, the standard industry treatise on the mining law, says that the law does "not sanction the disposal of federal lands under the mining laws for purposes unrelated to mining." Yet, according to John Leshy, former Solicitor of the Department of the Interior, "Subtitle B is effectively a 'general real estate law' and will put in the hands of corporations, the keys to privatize millions of acres of federal land."

In order to make it easier to dispose of federal lands, these provisions would also free the potential buyer from performing "mineral development work" on each unpatented claim or block of claims or millsites. Instead, it states that this type of work should be performed on "the federal lands identified and submitted for purchase." In other words, the potential buyer need only show that there has been some mineral development work somewhere on the lands being sold. The tracts could be huge because the proposal contains no limit on the acreage or numbers of claims that could be purchased.

Moreover, the provisions so broadly define "mineral development work" as to render it essentially meaningless. It could involve activities that never come close to the land itself; e.g., geologic, geochemical or geophysical surveys, which can be done remotely. It could involve, for example, buying and looking at satellite data, or going through USGS reports; or hiring a consultant to do on-line or library searches. And, it could include environmental baseline studies, or "engineering, metallurgical, geotechnical and economic feasibility studies." Again, consultants doing on-line searches and library work would qualify.

These provisions also prohibit any other fees or fair-market-value assessments to be applied to "prospecting, exploration, development, mining, processing, or reclamation, and uses reasonably incident thereto" - which would prohibit the government from levying any royalty or other production fee on mining operations.

As a long time advocate of responsible reform of the Mining Law of 1872, after reflecting on these provisions, I find it hard to believe that they would even be supported by responsible elements in the hardrock mining industry. Further, they represent an assault on America's natural resource heritage and to the American taxpayer. And given my history on this issue, I find them personally insulting as well.

In closing, I would note that the following groups, on behalf of the millions of members from across the country, agree with me that these provisions should be deleted from the Resource Committee's portion of the Budget Reconciliation Package: Taxpayers for Common Sense Action, Alaska Center for the Environment, American Rivers, Amigos Bravos Center for Biological Diversity, Center for Native Ecosystems, Citizens for Victor Clark Fork Coalition, Colorado Environmental Coalition Colorado Information Network for Responsible Mining, Earth Island Institute, Earthjustice, EARTHWORKS, Environmental Protection Information Center, Environmental Working Group, Friends of the Clearwater, Friends of the Earth, Friends of the Panamints, Gifford Pinchot Taskforce, Great Basin Mine Watch, Greater Yellowstone Coalition, Guardians of the Rural Environment, Idaho Conservation League, Indigenous Environmental Network, The Lands Council, Maricopa. Audubon Society, Mining Impact Coalition of Wisconsin, Montana Environmental Information Center, Mount Graham Coalition, National Environmental Trust, National Wildlife Federation, Natural Resources Defense Council, Northern Alaska Environmental Center Okanogan Highlands Alliance, Oxfam America, Rock Creek Alliance, Save the Scenic Santa Ritas, SHAWL Society, Sierra Club, Silver Valley Community Resource Center, Siskiyou Regional Education Project, Sky Island Alliance, South East Alaska Conservation Council, Southern Utah Wilderness Alliance, Umpqua Watersheds, Westerners for Responsible Mining, Western Organization of Resource Councils, The Wilderness Society, and Women's Voices for the Earth.

I urge my colleagues to join me in recommending that these provisions be stripped from the Budget Reconciliation Package if they are included by the House Budget Committee. America's public lands are held in trust for future generations. They deserve to be protected, not sold off at fire sale prices. American taxpayers deserve to be paid a fair royalty for the minerals taken from public lands, not to be cheated by a bill that sells their land to corporations for much less than its true worth. We can do better.