

Mining Law Reform in the 113th Congress

Jurisdiction Matters

- The House Natural Resources Committee has jurisdiction over all resources on the Federal Estate both onshore and offshore and the USGS
 - For energy and mineral resources that includes 700 million acres of onshore mineral estate; and
 - 1.76 billion acres offshore on the outer continental shelf
- We also have Jurisdiction over NEPA and ESA

House Rules

- Cut-go established in the 111th congress under Nancy Pelosi's leadership is still in effect and adhered to;
- Earmarks aren't allowed;
- Committees have been directed to follow regular order; and
- Legislation brought to the floor will be considered under an open rule.

Regular Order

- Subcommittee of Jurisdiction will hold oversight hearings;
- Introduction of Legislation;
- Legislative hearing will be held by the subcommittee of jurisdiction;
- Subcommittee discharges legislation at full committee for a full committee markup.

History of Mining Law Reform:

Background & History

The current mining law reform effort began in earnest in 1988 when Mr. Rahall introduced his first Mining Law Reform bill. His action was precipitated when the Department of Interior (DOI,) as a result of several Supreme Court decisions, was required to issue patents for placer claims covering oil shale deposits in the Piceance basin for the statutory price of \$2.50 per acre. The going price for land in the mid-1980s in that area was around \$75.00 per acre.

The claims had been staked sometime prior to the enactment of the Mineral Leasing Act of 1920 which put many commodities, oil and gas, coal, oil shale, sodium, potassium, and others, into a mineral leasing program.

Patent applications for title to the surface on the oil shale claims had been initiated in the 1940's and 1950's. DOI challenged the issuance of the patents and the issue was in the courts for several decades before finally being resolved.

Modern Efforts

- **103rd Congress** (1993 -1994) - Mining Law Reform ended in the fall of 1994 when the House and Senate could not agree on the type of royalty or royalty rates and other issues.
- **104th Congress** - 1995 Mining Law Reform was part of Budget Reconciliation. President Clinton vetoed the legislation citing the mining provisions as one of the reasons.
 - After the failure of legislative changes to the mining law Secretary Babbitt took steps to change the tenets of the law administratively. The actions of the Secretary and his Solicitor adversely impacted investment in mineral exploration in the U.S. falling from 20 % of the worldwide exploration budget to 7%. The hard rock mining sector has yet to fully recover from the Clinton Administration's efforts.
 - Mill Site & Ancillary Use Opinions

After a Long Hiatus

- **109th Congress** - Mining Law Reform was included in the 2005 House Budget Reconciliation language (this was with the blessing of Sen. Reid). Once leadership pulled the OCS and ANWR provisions – environmental groups targeted the mining provisions. The Senate never took up reconciliation.
- **110th Congress** (2007 – 2008) - Rahall again took up mining law reform holding three oversight hearings and one legislative hearing. The bill passed the House and was sent to the Senate. The Senate held some oversight hearings but did not produce a legislative vehicle.
- **111th Congress** (2009 – 2010) - Rahall introduced his legislation and held one hearing and waited for the Senate to take action.
 - **2009 Ranking Member Lamborn introduced the following bills:**
 - **H.R. 3201 - LOCATABLE MINERAL ROYALTY AND RECLAMATION ACT OF 2009**
 - **H.R. 3203 - “The Cleanup of Inactive and Abandoned Mines Act” (Good Sam)**

112th Congress (2011=2012)

- **Lamborn introduced H.R. 2011 – the “National Strategic and Critical Minerals Policy Act of 2011” (passed out of Committee by UC)**
- **Amodei introduced H.R. 4402 – the “Strategic and Critical Minerals Production Act of 2012” (passed the House)**

113th Congress (2013-2014)

- Lamborn introduced H.R. 1063 – the “National Strategic and Critical Minerals Policy Act of 2013”
- Amodei introduced H.R. 761 – the “Strategic and Critical Minerals Production Act of 2013”
- Udall (NM) offered an amendment to the Senate Budget Act to set up an account for future royalties from hardrock mining, Murkowski (AK) modified the amendment so that it only applies to federal lands, revenues would be shared with states and counties and would include permitting reform. Adopted By Voice Vote last Friday.

113th Congress

Other Legislation of Interest:

- [H.R. 687](#) (Gosar/Kirkpatrick), “*Southeast Arizona Land Exchange and Conservation Act of 2013*”
- [H.R. 697](#) (Heck), “*Three Kids Mine Remediation and Reclamation Act*”

113th Congress

On the agenda but not yet introduced:

- Mining Law Reform (Industry is interested in pursuing while Senator Reid is still the Majority Leader)
- Good Sam Legislation
 - In the House Jurisdiction is shared by three committees – Natural Resources, Transportation and Infrastructure, and Energy and Commerce
 - EPW Has Jurisdiction in the Senate

Unresolved Mining Law Reform Issues

Congressional Perspective (Republicans):

- Do we impose a federal royalty and/or AML fee
- Reinstate some form of patenting
- Do we add environmental provisions to the mining law

Unresolved Mining Law Reform Issues

Industry Perspective:

- Would support a net proceeds prospective royalty in exchange for permitting reform
- Need security of tenure (patenting or some other provision) ongoing litigation on the Ancillary Use Opinion has caused problems
 - Anyone needing loans to develop a mine situated on federal lands pays a premium (penalty) due to the uncertainty and permit delays associated with federal lands.
- Would like Good Samaritan legislation to more efficiently deal with the Hardrock AML problem (coal would want to be included)

Unresolved Mining Law Reform Issues

Environmental Groups:

- Want prohibitive gross royalties (retroactively) imposed on mining operations located on Federal land
- Want the Secretary of the Interior and Agriculture to be able to veto a mine permit anywhere along the permitting process
- Want additional onerous environmental regulations and penalties for any violations

Unresolved Mining Law Reform Issues

Administration:

- In previous budgets the Administration has proposed to put most hardrock mining under a leasing system and force all existing claim holders into the same system
- Imposes an 8% gross royalty and an additional fee on every ton of dirt moved including overburden as an AML fee – this is referred to as the **DIRT TAX**

Ancillary Issues Affecting Mining on Federal Lands

- Sage Grouse
- Climate Change
- EPA is currently working on a CERCLA level bonding regulation for hardrock mines. In addition they have taken pre-emptive actions to stop the Pebble Project in Alaska



Committee Oversight

- Ongoing investigation on DOI's Sage Grouse Initiative
- Conduct of the IG at DOI
- Implementation and practice of DOI's Science Policy

Other Things of Note

- The National Parks, Forest and Public Lands Committee has been changed to --
Public Lands and Environmental Regulation
 - NEPA is now under this subcommittee's jurisdiction
- ESA is handled at the Full Committee – generally Todd Ungerecht takes the lead



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