

TESTIMONY OF BRADY ROBINSON, OUTDOOR ALLIANCE  
UNITED STATES SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
LEGISLATIVE HEARING ON S.796,  
HARDROCK MINING AND RECLAMATION ACT OF 2009  
JULY 14, 2009

Chairman Bingaman and Committee Members:

My name is Brady Robinson and I live in Boulder, Colorado where I serve as the Executive Director for the Access Fund, a national climbing and mountaineering advocacy group dedicated to maintaining recreational access and conserving the climbing environment.

I provide this testimony for the legislative hearing on the Hardrock Mining and Reclamation Act of 2009 (S. 796) on behalf of the Outdoor Alliance, a coalition of six national, member-based organizations devoted to conservation and stewardship of our nation's public lands and waters through responsible human-powered outdoor recreation. Outdoor Alliance includes: Access Fund, American Canoe Association, American Hiking Society American Whitewater, International Mountain Bicycling Association, and Winter Wildlands Alliance. Collectively, we have members in all fifty states and a network of almost 1,400 local clubs and advocacy groups across the nation, including hundreds of clubs and local advocacy groups in states with significant current and historical mining activity.

The intersection between mining activity and human-powered outdoor recreation pursuits is significant. Indeed, many western epicenters for human-powered outdoor recreation, such as Bandelier National Monument and Questa Dome in the Sangre de Cristo National Forest, in New Mexico, Mt. St. Helens in Washington, the Rogue River in Oregon, and Yosemite National Park and the Lake Tahoe Area in California and Nevada, happen to be the same places where there are dramatic increases in new mining claims or potential for new mines.

Although hardrock mining is an important part of our nation's history and of many Western economies, it need not take place everywhere that ore can be found. This is especially the case with certain types of federal public lands that are valued for their landscapes, ecosystems, and the opportunities they provide for enjoyment for all Americans. Furthermore, we believe that in addition to the natural and social values embodied by America's unique public lands, the economic benefits of outdoor recreation in the West should also be protected from past and future mining practices.

From our perspective, hardrock mining reform should focus primarily on three fundamental areas: (1) creating a fair royalty system to fund abandoned mine cleanup; (2) environmental protection standards that explicitly recognize the value of our public lands beyond what can be extracted by mining interests; and (3) protecting federal lands that

have exceptional non-extractive value, such as National Conservation Areas, Wild and Scenic River corridors and Inventoried Roadless Areas from future mining activity.

## **I. Create a Fair Royalty System to Fund Abandoned Mine Cleanup**

The human-powered outdoor recreation community is intimately familiar with the ecological legacy of our federal hardrock mining policy because climbers, hikers, boaters, skiers and mountain bikers witness its effects on the ground. As such, the Outdoor Alliance has a strong interest in cleaning up the 500,000 abandoned mines across the West through new legislation that puts in place effective environmental safe guards to prevent future similar problems. Abandoned mines are more than a visual blight on the landscape: significant pollution and safety concerns also result from abandoned mines all across the West.

There is an enormous financial cost associated with past and current mining practices because most of these abandoned mines are now essentially the responsibility of the American taxpayers. Mining activities in the United States have resulted in upwards of 500,000 abandoned mines on Bureau of Land Management lands, 25,000 to 35,000 abandoned mines on Forest Service lands, and more than 2,000 in the National Park System. Estimated cleanup costs for abandoned hardrock mines in the United States could exceed \$50 billion.<sup>1</sup> Furthermore, according to the Environmental Protection Agency, mining has already contaminated the headwaters of more than 40 percent of the watersheds in the West.<sup>2</sup>

Despite the intimidating scope and cost of cleaning up abandoned mines, hardrock mining operations pay no royalties on the gold, copper, silver and uranium extracted from public lands. The Outdoor Alliance therefore believes that a fair and workable royalty system is required to fund long-overdue efforts to reclaim hundreds of thousands of abandoned mines across the West that continue to contaminate our public lands and waters. We are delighted that S. 796 endeavors to pursue this goal by creating a royalty system to fund abandon mine clean-up.

## **II. Environmental Protection Standards**

For the last 137 years, hardrock mining activities on federal land have enjoyed preferential treatment. Under the current law, mining is generally seen as the “best use” of federal lands. Although hardrock mining is subject to a number of federal and state environmental protection statutes, hardrock mining also benefits from a number of

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<sup>1</sup> United States Environmental Protection Agency, Office of Solid Waste and Emergency Response, *Cleaning Up the Nation's Waste Sites: Markets and Technology Trends*, September 2004.

<sup>2</sup> United States Environmental Protection Agency, *Liquid Assets: America's Water Resources at a Turning Point*, 2000.

exceptions to these laws. From our perspective, S. 796 goes a long way in improving this situation. For example:

- Section 301 (d) requires that the permit process for mining activity be coordinated “To the maximum extent practicable” with the National Environmental Policy Act of 1969 (NEPA);
- Under Section 303(b), permits applications must take into account pre-mining land and water resources and develop an operations plan that both avoids the formation of acid mine drainage to the maximum extent practicable and employs best management practices;
- The notice and comment provisions in Section 303(c) relating to permit issuance decisions will also have an indirect, but material impact on the environmental aspects of future mining activity; and
- Under the Section 306 the bill includes provisions that direct the Secretary of Agriculture to “take any action necessary to prevent unnecessary or undue degradation of the lands.”

These provisions, and a number of others, are a serious improvement over the *status quo* and would help modernize our nation’s hardrock mining policy. We believe, however, that there is some room for modest improvement. First, we think that a comprehensive statement directing the Secretaries of Interior and Agriculture to assure that mining activities be conducted in a manner that is protective of the environment, and also be placed in the context of other uses and values of federal land, including habitat, clean air and water and sustainable recreation is necessary to place hardrock mining activity in perspective with 21<sup>st</sup> century conservation and stewardship values. Second, we believe that the “Administration of Land” provisions in Section 306(c) cover not only the Secretary of Agriculture, but the Interior Secretary as well.

#### **IV. Protection of Special Places**

Our nation’s unique public lands provide critical wildlife habitat, clean water supplies, and unmatched human-powered recreation opportunities. These irreplaceable and vulnerable areas generally are not appropriate places for mining and should be protected from new mining claims.

We recognize that metal plays a significant role in much of the outdoor equipment that we use to explore public lands. However, given the massive ecological footprint of modern mining, the human-powered outdoor recreation community believes that some special and unique public lands and waters should be categorically withdrawn from future mining development. This can be accomplished by protecting (subject to existing rights) lands recommended for wilderness designation, wilderness study areas, national monuments, wild and scenic rivers (and those determined eligible and under study for inclusion in the system), as well as inventoried roadless areas.

As we understand it, rather than a categorical withdrawal of all such land, S. 796 directs the Secretaries of Agriculture and Interior to work with local land managers to review these and other categories of federal lands with high ecological values to identify parcels that should be withdrawn from future mining activity. This review must be completed within three years of enactment of S. 796. The implication appears to be that any land in these categories not identified to be withdrawn from mining within this three year window would then be open to mining henceforth. While an improvement over the *status quo*, this approach does not appear to be adequate considering the millions of acres of public land at stake. Outdoor Alliance favors withdrawing all of these categories of high ecological value Federal land from mining at the outset.

To the extent categorical withdrawal of high ecological value Federal land high-value ecological is not an option, we encourage the Committee to consider inverting the proposed withdrawal mechanism in a manner that would vest mining interests with the responsibility of analyzing mineral potential in these federal land categories subject to a discrete time period to petition the respective Secretaries to open limited parcels to mining activity. Whatever lands in these federal categories not opened by the respective Secretaries would, of course, be closed to mining activity henceforth. Some type of public notice and comment would further enhance this process.

## **V. Conclusion**

The human-powered community places a greater value on public lands beyond our own use and enjoyment of these special areas. That is why we work with federal land managers to design rules and policies that conserve and protect public lands and create and follow our own internal environmental protection standards—from clean climbing to the “Leave No Trace” ethics—that ensure our activities coexist with other uses and limit our impacts on the environment. Requiring the mining community to similarly put their use of public lands into the greater context of the public interest is only fair, and long overdue. Accordingly, we support the provisions in S. 796, subject to the modest policy suggestions discussed herein, that aim fund abandoned mine cleanup, elevate environmental protection standards, and make off-limits to mining the many high-value natural and recreation sites on public lands.

Thank you for the opportunity to provide written testimony on this important legislative initiative.