

TESTIMONY OF JASON KEITH, OUTDOOR ALLIANCE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
LEGISLATIVE HEARING ON H.R. 699,
HARDROCK MINING AND RECLAMATION ACT OF 2009
FEBRUARY 26, 2009

Chairman Costa and Members of the Subcommittee:

My name is Jason Keith and I live in Moab, Utah where I serve as the Policy Director for the Access Fund, a national climbing and mountaineering advocacy group dedicated to maintaining recreational access and preserving of the climbing environment. I provide this testimony for the legislative hearing on the Hardrock Mining and Reclamation Act of 2009 (H.R. 699) 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, and represents the interests of the millions Americans who hike, paddle, climb, mountain bike, ski and snowshoe on our nation's public lands, waters and snowscapes.

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. The Outdoor Industry Association reports that active outdoor recreation contributes over \$730 billion into the U.S. economy every year.¹ The Outdoor Alliance believes strongly that in addition to the natural and social values embodied by America's unique public lands, the economic benefits of outdoor recreation in places like Moab, Utah should be protected from past and future practices of the mining industry that have and will continue to degrade our special recreation areas.

As human-powered outdoor recreation enthusiasts, we all need metal; from climbing carabiners and bike frames to trekking poles and ski edges. However, the problem lies with 19th Century values and policy guiding 21st Century high-tech mining practices. The laws adopted in 1872 to govern prospecting with a pick and shovel and to help settle the West before the invention of the light bulb are the same laws in use today. Without meaningful reform, the Outdoor Alliance is concerned that these outdated laws will continue to place no regard for the new values and economic future of the West.

Collectively, the Outdoor Alliance has 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

¹ The Active Outdoor Recreation Economy, Outdoor Industry Foundation, Fall 2006.

local advocacy groups in states affected by the mining industry. The Outdoor Alliance believes that 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) the protection of special places.

I. Outdoor Alliance’s Stake in Mining Reform

As a southern Utah resident, I see the negative affects of mining practices every time I go outside. Decades of uranium mining has left of toxic legacy of abandoned mines and mill sites strewn across the landscape of the Colorado Plateau that will cost American taxpayers tens-of billions of dollars to clean up. Climbing and all the Outdoor Alliance pursuits are “indicator activities”; that is, most of the time we are the first to see the affects of mining practices and other activities on our public lands. Recently, over 32,000 new uranium claims have been filed within a stone’s throw of legendary Utah climbing venues such as Indian Creek and Canyonlands National Park, and if the mining companies working those claims follow the same practices used by the mining industry over the last 50 years, our cherished natural areas will continue to be severely degraded. Only through meaningful reform of the 1872 Mining Law will climbers and other public land users have an opportunity to have a say in how the public lands around many of their favorite climbing destinations are valued and subsequently managed.

II. Create a Fair Royalty System to Fund Abandoned Mine Cleanup

The human-powered outdoor recreation community is intimately familiar with the ecological legacy of the 1872 Hardrock Mining Law because climbers, hikers, boaters, skiers and mountain bikers witness its effects on the ground every day. 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 under the 1872 Hardrock Mining Law 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.² Furthermore, according to the Environmental Protection Agency, mining has already contaminated the headwaters of more than 40

² 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.

percent of the watersheds in the West.³ Despite the intimidating scope and cost of cleanup, hardrock mining operations pay no royalties on the gold, copper, silver and uranium they take from our 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.

For 137 years, valuable minerals extracted from federal lands have been given to private interests for free. By comparison, other extractive industries—oil, gas, coal—pay a royalty when operating on public lands. We believe that a properly structured royalty is fiscally and environmentally responsible. Mining companies not only mine for free on public lands (which is not the case for mining on state or tribal owned lands), but they also benefit from preferential tax treatment that other industries do not receive. Mining companies are allowed to expense certain costs for exploration and development, as well as deduct the costs of closing a mine and the associated reclamation costs before a mine is actually closed. Therefore, the Outdoor Alliance supports a mining royalty that is based on “gross income” or “net smelter” return.⁴ A royalty of this nature limits opportunities for abuse and ensures that the royalty can automatically adjust to changes in the market and not overcharge or undercharge.

In short, the Outdoor Alliance enthusiastically endorses the provisions in HR 699 that create a Hardrock Reclamation Account in which royalties paid by mining companies would be used for the reclamation and restoration of land and water resources adversely affected by past mining activities on federal public lands. A similar “royalties-to-reclamation” law currently governs the coal and oil and gas industries and the hardrock mining industry should be held to the same standard, especially considering its poor track record of littering and polluting our public lands and waters.

III. Environmental Protection Standards

For the last 137 years, hardrock mining activities on federal land have enjoyed preferential treatment. Under the current law, mining is 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 exceptions to these laws. Furthermore, the 500,000 abandoned mines and associated pollution in the West is evidence that current statutory and regulatory environmental safeguards have proven extremely ineffective in protecting our land and waters (and taxpayer dollars). The adoption of meaningful environmental protection standards will go a long way towards fixing this longstanding imbalance and ensure that the environmental

³ United States Environmental Protection Agency, *Liquid Assets: America’s Water Resources at a Turning Point*, 2000.

⁴ We also endorse, as outlined in HR 699, a significant of the proposed reclamation fund to support financially support downtrodden “boom to bust” mining towns that need funding for schools, water supplies, and other critical public services. This fund may also supply funds to plan for more forward-looking economic balance so that local communities are not totally dependent on mining jobs that disappear every twenty years due to market influences.

degradation of our public lands caused by an outdated mining law does not continue. Mining activities should be conducted in a way that protects the environment, public health, and public safety. Meaningful hardrock mining law reform will recognize other important purposes of public lands such as recreation, wildlife habitat and clean water which are important 21st Century values that put a premium on the health and welfare of current and future Americans.

Accordingly, the Outdoor Alliance supports mining law reform that ensures that future mining activities are carefully controlled to prevent undue degradation of public lands and resources. Furthermore, we support granting discretionary authority to the federal government to deny permits in cases where it is determined that undue degradation would result from mining activities. We also support the coordination of mine permitting with the National Environmental Policy Act process in order to include the public in permitting decisions and to better inform mine permits alternatives.

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 are not appropriate places for mining and should be protected from new mining claims.

As noted, 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.

Accordingly, the Outdoor alliance supports the provisions in HR 699 which would make off limits any new claims in the locations noted above. These special places are irreplaceable natural areas that often have high value recreational opportunities, and the Outdoor Alliance endorses efforts to protect these areas for current and future generations.

V. Conclusion

The Outdoor Alliance 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 strongly endorse the provisions in HR 699 which would 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.