

**ORAL TESTIMONY**

**County Commissioner Jim Starr**

Gunnison County, Colorado

Before the

**UNITED STATES HOUSE OF REPRESENTATIVES**

Committee on Natural Resources

Subcommittee on Energy and Mineral Resources

RE: 1872 Mining Law Reform

February 26, 2009

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1. Good Morning.
2. First, let me start by thanking the Honorable Chairperson, Congressman Costa, and the members of the Subcommittee for this opportunity to testify regarding the Hardrock Mining and Reclamation Act of 2009.
3. I am Jim Starr. I am, and have been, a County Commissioner in Gunnison County, Colorado for the past 10 years. My comments today are not directed toward any specific project being considered by the Board of

County Commissioners of Gunnison County and should not be construed to be made in a quasi-judicial capacity.

4. Gunnison County is a rural Western Colorado county consisting of some 15, 000 persons and located 230 miles southwest of Denver. We encompass approximately 3,300 square miles and approximately 87% of our land is owned by the federal and state governments.

5. There are four points I intend to make:

- a. We recognize that hardrock minerals are valuable natural resources that should be extracted and put to beneficial use.
- b. It is undeniable that the 1872 Mining Law, and its particulars, are antiquated and in need of immediate and wholesale reform.
- c. The patent mechanism at the core of the 1872 Mining Law is not the appropriate mechanism, currently, to make federal lands available for private hardrock exploration and extraction;
- d. Any new mechanism must include robust presumptive protections so that exploration and operation in special areas (and negative impacts to special areas) cannot occur.

6. There is a preface to my presentation that is essential for me to state explicitly, and which will put my comments into context. First, my County and I recognize that hardrock minerals are valuable natural resources that

should be extracted and put to beneficial uses. Second, we recognize that there are impacts – positive, negative, environmental, social, economic and otherwise – caused by extraction of these resources. Third, it is only fair and prudent that a mechanism that Congress adopts to make federal lands available to private hardrock extraction explicitly include measures to ensure the negative impacts be avoided or minimized both by the federal government and the operators.

7. The timeliness of this much needed reform is evident. In 1872 when President Grant signed the legislation into law, the interior west was largely unsettled by people other than Native Americans and the federal government was doing everything in its power to encourage immigrant that settlement and to assist in the industrialization of our country. An acre of land could be, and still can be, claimed and eventually patented. This provides the claimholder with title to public land for as little as \$5.00 per acre, the current day cost of a gallon of milk. Today, the Rocky Mountain West is largely inhabited, hard rock mineral resources have been and are being developed throughout the world, and communities of all sizes have located near mineral resource areas in the West. In short, 127 years later, mineral extraction may no longer be the highest and best use for federal lands, many former mining communities have now developed economies which are

incompatible with industrialized mining, and water quantity and quality have become issues of utmost importance in the West.

8. I respectfully suggest that Congress carefully examine, first, whether the patent process itself remains a viable, healthy tool – or whether a different process to make federal lands available to private mineral extraction would better serve the country and still accomplish the mission. The patent process – which results in fee simple ownership of federal land by private owners – was a tool appropriate for 1872 – when the federal government was encouraging not only mineral exploration but also the wholesale settlement of the West. A similar tool of more than 100 years ago – Railroad Land Grants (e.g. the Pacific Railroad Act of 1862) had a similar impetus and is similarly currently outdated. These grants helped build transcontinental railroads – but resulted in millions of acres of federal land being divested and placed in private ownership. Would one do the same today to encourage the building of a private toll road? I suggest not.

9. There IS currently a tool available that results in federal encouragement of exploration and use of federal lands for mineral extraction – long term LEASING of federal lands for oil and gas exploration and operations. While this leasing regime has its own flaws, one thing that it does NOT do is transfer fee simple ownership of federal land to private

parties. A second benefit of a federal lease mechanism would be that the federal government will remain as a steward of its own land – enhancing its obligation and ability to protect those lands. A further benefit of a non-fee-simple patent transfer is avoidance of the unintended but realistic consequence of public land going into private but foreign ownership. I would respectfully request that Congress examine such a lease approach.

10. Section 202 of this legislation which allows for selective withdrawal of federal lands from entry must be retained and made an affirmative presumption. Rebutting this presumption should require a demonstration by clear and convincing evidence that there are no other locations where the desired minerals can be extracted. For instance municipal watersheds are critically sensitive areas that deserve the protection of such a presumption of withdrawal. Available, high quality water is already a rapidly dwindling resource in the arid West and the availability of this water will likely decrease because of climate change. We have long recognized that significant natural resources, such as our natural parks, must not be open for location and entry. Before it is too late, it is imperative that we now also recognize the local and national importance of protecting our municipal watersheds.

11. Accordingly, we respectfully request that Congress act as expeditiously as possible to consider these proposals and to pass House Resolution 699, including meaningful and workable withdrawal language.

Thank you.