

109TH CONGRESS
1ST SESSION

H. R. 1265

To provide a source of funding for the reclamation of abandoned hardrock mines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2005

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide a source of funding for the reclamation of abandoned hardrock mines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, FINDINGS, AND PURPOSE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Abandoned Hardrock Mines Reclamation Funding Act”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Through various laws and policies, including
8 the Act of May 10, 1872 (commonly known as the
9 General Mining Law of 1872; 30 U.S.C. 22 et seq.),
10 the Federal Government has encouraged the develop-

1 ment of gold, silver, and other mineral resources, es-
2 pecially in the western States, and development of
3 these resources has helped create a strong economy
4 and provided needed materials for many critical
5 products and services.

6 (2) However, historically mining activities have
7 occurred in recurrent cycles of “boom” followed by
8 “bust”, with many mines left inactive or abandoned
9 at the end of each cycle.

10 (3) As a result of this history, the United
11 States has been left an unwelcome legacy of inactive
12 or abandoned mines, including thousands of such
13 mines in the western States.

14 (4) Many of these inactive or abandoned mines
15 pose safety hazards to the public, and the drainage
16 and runoff from such mines has damaged thousands
17 of stream miles to the detriment of water quality,
18 particularly in several western States.

19 (5) The environmental cleanup of these inactive
20 or abandoned mines is hampered by lack of funding.
21 Federal and State agencies and Indian tribes are
22 often unable to afford to make cleanup of these mine
23 sites a high priority.

1 (6) It is in the national interest to facilitate the
2 cleanup of inactive or abandoned mines through ap-
3 propriate legislation that reduces this obstacle.

4 (c) PURPOSE.—The purpose of this Act is to facili-
5 tate cleanup of inactive and abandoned mine sites by es-
6 tablishing a source of funding for that purpose.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) The term “gross proceeds” means the value
10 of any extracted hardrock mineral that was—

11 (A) sold;

12 (B) exchanged for any thing or service;

13 (C) removed from the country in a form
14 ready for use or sale; or

15 (D) initially used in a manufacturing proc-
16 ess or in providing a service.

17 (2) The term “net proceeds” means gross pro-
18 ceeds less the sum of the following deductions:

19 (A) The actual cost of extracting the min-
20 eral.

21 (B) The actual cost of transporting the
22 mineral to the place or places of reduction, re-
23 fining, and sale.

24 (C) The actual cost of reduction, refining,
25 and sale.

1 (D) The actual cost of marketing and de-
2 livering the mineral and the conversion of the
3 mineral into money.

4 (E) The actual cost of maintenance and re-
5 pairs of—

6 (i) all machinery, equipment, appa-
7 ratus, and facilities used in the mine;

8 (ii) all milling, refining, smelting and
9 reduction works, plants and facilities; and

10 (iii) all facilities and equipment for
11 transportation.

12 (F) The actual cost of fire insurance on
13 such machinery, equipment, apparatus, works,
14 plants, and facilities.

15 (G) Depreciation of the original capitalized
16 cost of such machinery, equipment, apparatus,
17 works, plants, and facilities.

18 (H) All money expended for premiums for
19 industrial insurance, and the actual cost of hos-
20 pital and medical attention and accident bene-
21 fits and group insurance for all employees.

22 (I) The actual cost of developmental work
23 in or about the mine or upon a group of mines
24 when operated as a unit.

1 (J) All royalties and severance taxes paid
2 to the Federal Government or State govern-
3 ments.

4 (3) The term “hardrock minerals” means any
5 mineral other than a mineral that would be subject
6 to disposition under any of the following laws if lo-
7 cated on land subject to the general mining laws:

8 (A) The Mineral Leasing Act (30 U.S.C.
9 181 et seq.).

10 (B) The Geothermal Steam Act of 1970
11 (30 U.S.C. 1001 et seq.).

12 (C) The Act of July 31, 1947, commonly
13 known as the Materials Act of 1947 (30 U.S.C.
14 601 et seq.).

15 (D) The Mineral Leasing Act for Acquired
16 Lands (30 U.S.C. 351 et seq.).

17 (4) The term “Secretary” means the Secretary
18 of the Interior.

19 (5) The term “patented mining claim” means
20 an interest in land which has been obtained pursu-
21 ant to sections 2325 and 2326 of the Revised Stat-
22 utes (30 U.S.C. 29 and 30) for vein or lode claims
23 and sections 2329, 2330, 2331, and 2333 of the Re-
24 vised Statutes (30 U.S.C. 35, 36, and 37) for placer

1 claims, or section 2337 of the Revised Statutes (30
2 U.S.C. 42) for mill site claims.

3 (6) The term “general mining laws” means
4 those provisions of law that generally comprise chap-
5 ters 2, 12A, and 16, and sections 161 and 162, of
6 title 30, United States Code.

7 (7) The term “Fund” means the Abandoned
8 Minerals Mine Reclamation Fund.

9 **SEC. 3. SOURCE OF REVENUES FOR ABANDONED MINE**
10 **CLEANUP.**

11 (a) RECLAMATION FEE.—

12 (1) FEE IMPOSED.—Any person producing
13 hardrock minerals from a mine within an
14 unpatented mining claim or a mine on land that was
15 patented under the general mining laws shall pay a
16 reclamation fee to the Secretary under this section.

17 (2) FEE AS PERCENTAGE OF NET PROCEEDS.—
18 The amount of the fee under this section shall be
19 equal to a percentage of the net proceeds derived
20 from the mine. The percentage shall be based upon
21 the ratio of the net proceeds to the gross proceeds
22 related to mineral production from the mine in ac-
23 cordance with the following table:

| Net proceeds as percentage of gross proceeds | Rate of fee as percentage of net proceeds |
|---|--|
| Less than 10 | 2.00 |
| 10 or more but less than 18 | 2.50 |
| 18 or more but less than 26 | 3.00 |
| 26 or more but less than 34 | 3.50 |
| 34 or more but less than 42 | 4.00 |
| 42 or more but less than 50 | 4.50 |
| 50 or more | 5.00 |

1 (b) EXEMPTION.—Gross proceeds of less than
2 \$500,000 from minerals produced in any calendar year
3 shall be exempt from the reclamation fee under this sec-
4 tion for that year if such proceeds are from one or more
5 mines located in a single patented claim or on two or more
6 contiguous patented claims.

7 (c) PAYMENT.—The amount of all fees payable under
8 this section for any calendar year shall be paid to the Sec-
9 retary within 60 days after the end of such year.

10 (d) DEPOSIT OF REVENUES.—The Secretary shall
11 deposit amounts received under subsection (c) in the
12 Abandoned Minerals Mine Reclamation Fund.

13 (e) RELATION TO STATE FEES.—Nothing in this Act
14 shall be construed to require a reduction in, or otherwise
15 affect, a similar fee provided for under State law.

16 (f) REDUCTION OF FEES.—The Secretary shall re-
17 duce a fee required by this section by an amount equal
18 to a royalty paid pursuant to an Act of Congress that pro-
19 vides for crediting to the Fund of royalties paid to the
20 Secretary with respect to production of hardrock minerals.

1 (g) EFFECTIVE DATE.—This section shall take effect
2 with respect to hardrock minerals produced after Decem-
3 ber 31, 2004, except that subsection (f) shall take effect
4 one year after the date of the enactment of the law de-
5 scribed in such subsection.

6 **SEC. 4. ABANDONED MINERALS MINE RECLAMATION FUND.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established in the
9 Treasury of the United States an interest-bearing
10 fund to be known as the Abandoned Minerals Mine
11 Reclamation Fund. The Fund shall be administered
12 by the Secretary.

13 (2) INVESTMENT.—The Secretary shall notify
14 the Secretary of the Treasury as to what portion of
15 the Fund is not, in the Secretary's judgment, re-
16 quired to meet current withdrawals. The Secretary
17 of the Treasury shall invest such portion of the
18 Fund in public debt securities with maturities suit-
19 able for the needs of such Fund and bearing interest
20 at rates determined by the Secretary of the Treas-
21 ury, taking into consideration current market yields
22 on outstanding marketplace obligations of the
23 United States of comparable maturities. The income
24 on such investments shall be credited to, and form
25 a part of, the Fund.

1 (3) ADMINISTRATION.—The Secretary shall use
2 the existing Federal program for abandoned mine
3 reclamation authorized by title IV of the Surface
4 Mining Control and Reclamation Act of 1977 (30
5 U.S.C. 1231 et seq.) to administer the Fund and for
6 making expenditures from the Fund.

7 (b) USE AND OBJECTIVES OF THE FUND.—

8 (1) IN GENERAL.—Amounts in the Fund shall
9 be available to the Secretary, without further appro-
10 priation and until expended, to perform or support
11 reclamation and restoration activities affecting eligi-
12 ble areas, including any of the following:

13 (A) Reclamation and restoration of aban-
14 doned surface mined areas.

15 (B) Reclamation and restoration of aban-
16 doned milling and processing areas.

17 (C) Sealing, filling, and grading abandoned
18 deep mine entries.

19 (D) Planting of land adversely affected by
20 past mining to prevent erosion and sedimenta-
21 tion.

22 (E) Prevention, abatement, treatment, and
23 control of water pollution created by abandoned
24 mine drainage.

1 (F) Control of surface subsidence due to
2 abandoned deep mines.

3 (2) METHODS OF USE.—Subject to the special
4 disbursement requirements of subsection (g),
5 amounts in the Fund may be expended directly by
6 the Secretary or by making grants to approved State
7 reclamation programs, as described in subsection
8 (d). The Secretary shall consult and coordinate with
9 eligible States on those projects funded directly or in
10 conjunction with other Federal agencies.

11 (c) ELIGIBLE AREAS.—Reclamation expenditures
12 under this section shall be made only in States described
13 in subsection (e) and shall be used only for the reclamation
14 of lands (and related waters)—

15 (1) that were, but are no longer, actively mined
16 for hardrock minerals (and not in temporary shut-
17 down) as of the date of the enactment of this Act;

18 (2) that are not identified for remedial action
19 under the Comprehensive Environmental Response,
20 Compensation, and Liability Act of 1980 (42 U.S.C.
21 9601 et seq.) and for which there is no identifiable
22 owner or operator for the mine or mine facilities;

23 (3) that are not designated for remedial action
24 pursuant to the Uranium Mill Tailings Radiation
25 Control Act of 1978 (42 U.S.C. 7901 et seq.); and

1 (4) for which no evidence exists that the lands
2 contain minerals that economically could be ex-
3 tracted through the mining, reprocessing, or re-
4 mining of the lands.

5 (d) ELIGIBLE STATES.—

6 (1) ELIGIBILITY REQUIREMENTS.—Except as
7 provided in paragraph (2), expenditures from the
8 Fund shall be made only for reclamation of lands
9 and water in States that—

10 (A) contain lands subject to the general
11 mining laws; and

12 (B) have completed a statewide inventory
13 of abandoned hardrock sites within the State el-
14 igible to receive funding under this Act.

15 (2) INVENTORY FUNDING.—A State that con-
16 tains lands subject to the general mining laws, but
17 that has not completed a statewide inventory as de-
18 scribed in paragraph (1)(B), may receive grants not
19 exceeding \$2,000,000 annually to assist in the com-
20 pletion of the required inventory.

21 (3) APPROVED STATE RECLAMATION PRO-
22 GRAMS.—In the case of a State described in para-
23 graph (1), the Secretary may make expenditures
24 from the Fund to the State for a State reclamation
25 program that meets the requirements of section 405

1 of the Surface Mining Control and Reclamation Act
2 of 1977 (30 U.S.C. 1235) and is applicable to
3 hardrock mining.

4 (4) STATES WITHOUT APPROVED PROGRAMS.—

5 If a State described in paragraph (1) does not have
6 an approved State program under section 405 of the
7 Surface Mining Control and Reclamation Act of
8 1977 (30 U.S.C. 1235) that is applicable to
9 hardrock mining, the Secretary may provide funds to
10 the State after the Secretary determines that the
11 State has authority to implement a hardrock aban-
12 doned mine land program, and that State authority,
13 at a minimum, includes the establishment of a State
14 reclamation plan for abandoned hardrock mines and
15 clear authorization for the administration and ex-
16 penditure of funds for eligible areas described in
17 subsection (c).

18 (e) PRIORITIES.—Expenditures from the Fund shall
19 reflect the following priorities, in the following order of
20 priority:

21 (1) EXTREME DANGER.—Protection of public
22 health, safety, general welfare, and property from
23 extreme danger of adverse effects of past mining ac-
24 tivity.

1 (2) ADVERSE EFFECTS.—Protection of public
2 health, safety, general welfare, and property from
3 the adverse effects of past mineral activity, including
4 the restoration of land, water, and fish and wildlife
5 resources degraded by the adverse effects of past
6 mining activity.

7 (f) ELIGIBLE REMEDIATING PARTIES.—The Sec-
8 retary may authorize expenditures from the Fund for re-
9 mediation activities conducted by a Federal agency or by
10 remediating parties who are permittees under the aban-
11 doned or inactive mine land waste remediation permit pro-
12 gram, as provided for in section 402(r) of the Federal
13 Water Pollution Control Act (33 U.S.C. 1342(r)).

14 (g) SPECIAL DISBURSEMENT REQUIREMENTS.—

15 (1) SET-ASIDE.—Of the funds collected under
16 section 3 with regard to a mine for a calendar year
17 and deposited in the Fund—

18 (A) 25 percent shall be expended in the eli-
19 gible State in which the mine is located, pursu-
20 ant to an approved abandoned mine land rec-
21 lamation program under subsection (d)(3); and

22 (B) 50 percent shall be expended in the eli-
23 gible States based on each eligible State's per-
24 centage of the value of total national hardrock
25 mineral production during the years 1900

1 through 1980, which the Secretary shall deter-
2 mine using United States Geological Survey
3 Minerals Yearbooks and published metal prices.

4 (2) RELEASE.—If funds allocated pursuant to
5 paragraph (1)(A) have not been expended within
6 three years after collection, the Secretary shall make
7 such funds available to other eligible States as deter-
8 mined appropriate by the Secretary.

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