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Federal mining law from 1872 long overdue for an update

BY TIM PALMER

Imagine if transportation were governed by laws passed before cars were invented. Or if communications were dictated by edicts predating telephones. Or if public lands were managed by rules passed when national forests didn't exist.

Written when sourdoughs were swinging pickaxes in pursuit of their elusive fortunes, the Mining Law of 1872 remains in effect — even though equipment six stories tall can now remove entire mountaintops in a matter of days.

With full protection of the 1872 law, foreign interests claim public land belonging to all Americans and preempt it for their own profits. Mining companies have bought hundreds of thousands of acres of public land for prices frozen during Ulysses Grant's presidency at less than \$5 per acre. Since 2000 alone, 15,600 acres of public property have been converted to miners' ownership.

Revenues enriching the extraction companies total in the hundreds of billions, but not a dime in royalties have been paid for these minerals taken from U.S. Forest Service or Bureau of Land Management property.

Safeguards to protect everyone's water, air and vistas are totally absent from the Mining Law. It enables faceless corporations to deplete our land and pollute our streams and then retreat to their nether land of offshore unaccountability when the bills come due. Declaring bankruptcy is easy and common once the profitable mining is done. That is what happened, for example, when a Canadian corporation abandoned the Formosa Mine in Southern Oregon in 1993, now a Superfund toxic waste site.

Just because a law is old doesn't mean it's bad. But here we're not talking about the Constitution or the Bill of Rights. Rather, the mining directive was steeped in corruption when it passed, and it has only become more toxic with the passage of time, with the growth of technology and with the greed of globalism.

This statute's rationale, to use the term loosely, was based on the need to open the West to settlement. Since then, the pioneer crossroads of Los Angeles, Seattle and Portland have become the cities we know. When the law was passed, the transcontinental railroad was replacing wagon travel as the primary means of crossing the country. But the Mining Law remains, just as potent as ever in its destructive power.

According to the Environmental Protection Agency, mining under this rubric now pollutes 40 percent of the headwaters of western waterways with toxic chemicals that ruin our urban and farm water supplies, fisheries, recreation sites and backyards. To clean up the mess, taxpayers would have to shell out \$50 billion.

Gravel mining, coal mining and drilling for oil and gas are covered by updated laws. But those who excavate open pits for copper or decapitate entire mountaintops for a bit of nickel or other hardrock minerals get a free ride on taxpayers' backs.

Reform of the Mining Law is urgent in Oregon. Our lands and waters have endured wreckage at sites such as the Formosa Mine — easily seen on Google Earth near Riddle — with its lead, zinc, cadmium and other poisons leaking into Umpqua River tributaries. The public costs of cleaning it up are estimated at \$20 million. But more importantly, threats loom for uncontrolled new mines. Proposals menace iconic streams such as the Illinois, Rogue and Smith rivers, as well as lesser-known but cherished waters such as Hunter Creek south of Gold Beach.

Stripping for nickel would pollute our finest salmon and steelhead waters — resources that Oregonians and our communities depend upon. This archaic law binds us to the same mistakes tomorrow that we've been making for 142 years.

Congressman Peter DeFazio has introduced legislation to reform this relic of a long-gone era. Do we really have to live under a law based on a misguided choice in 1872? Let's get over it.

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