



## Why Is Theft of Public Resources Legal?

*The 1872 Mining Law says taking gold from public land is okay.*

“It’s the biggest scam going on in America today,” Senator Dale Bumpers (D-Ark.) has said. Find precious mineral reserves anywhere under public land in America—even national parks—and you can claim that land as your own. It’s called, absurdly, “patenting” (as though the finder had “invented” the gold he or she found). In truth, it’s theft of public resources. And it’s bizarrely easy: You drive four stakes into the land, prove the minerals are there, and the government is pretty much obligated to sell it to you. The price? Get this, now: The price for precious wilderness with gold or silver underneath it—that price, my friends, is \$5 an acre. Less than the cost of a movie and popcorn. This outrageous arrangement is courtesy of the 1872 Mining Law, a fossil of the gold rush era with life in it still.

Take the infamous Goldstrike mine in northern Nevada. Its gold reserves—more than 27 million ounces—are the largest of any mine in North America, and were at one time located entirely on public land. When patented (sold) in 1994, what price did this marvel fetch? \$9,000. That’s about the cost of a used car, while the estimated market value of its reserves is \$11 billion. The purchasing company, by the way, was not even a U.S. firm: It was the Canadian company American Barrick Resources.

Take another example—the Stillwater Mine in Montana. It contains rich deposits of 225 million ounces of platinum and palladium, worth an eye-popping \$43 billion at market prices. We sold this beauty to the Stillwater Mining Company in the early 1990s for—hold onto your hats now—\$10,180. What was it worth? Consider that a few years later, the company turned around and sold a 27 percent stake for \$110 million, plus a cut of future profits.

How much has the nation given away under this archaic law? The Mineral Policy Center estimates that, since 1872, mining companies have patented \$243 billion worth of mineral reserves. It’s no wonder mining companies give their finds romantic names like “Golden Reward” or “Treasure Chest.” But in the long run, the more accurate title can be “Superfund site.”

There are 59 sites with that title today: 59 sites on the Superfund National Priority List, where the pollution is directly related to mining. One is Iron Mountain in northern California, where mining was halted in 1963, but experts estimate acid could continue leaching from the site for 3,000 years. Streams nearby are already 10,000 times more acidic than battery acid. And their water ends up in San Francisco Bay.

Acid leaching is endemic to mining. When you dig up tons of rock to get to ore beneath it, and leave this so-called “waste rock” laying around, it leaches acids and heavy metals. Even worse is when a “tailings” pond is breached. Tailings are the toxic sediments left after ore has been removed, using agents like cyanide and sulfuric acid, and these tailings are commonly collected into containment ponds. In 1990, one such pond at the Brew Gold Mine in Jefferson, S.C., spilled over after a heavy rain—dumping more than 10 million gallons of cyanide-poisoned water into the Lynches River. Nearly 11,000 fish were killed.

Equally appalling is the Summitville Superfund site in Colorado, where the mining company went bankrupt in 1992, and the Environmental Protection Agency is now spending \$33,000 per day to keep cyanide from spilling into the Rio Grande River. The cleanup cost there could reach \$100 million. And the government is stuck with that cost—after it’s given away billions of dollars of ore.

The 1872 Mining Law is outrageous. But the broader outrage is how common this pattern is, of government giving away public resources to corporations, while demanding little or nothing in return. We saw it when Congress gave away billions of dollars worth of

TV spectrum to broadcasters. We see it when municipal governments use tax dollars to build sports stadiums for private teams, or when the federal government pays to advertise California wines to the French. This is not ultimately about one bizarre law. It’s about a pervasive mental attitude that says it’s OK for corporations to take from the community and pay next to nothing.

If a small town government takes an acre of land from an individual without adequate compensation, it’s unconstitutional. Yet if an enormous multinational corporation takes billions of dollars of public resources, it’s fine. Something is askew here—something unforeseen in the world of 1872, or 1776: It’s an abuse of private power on a scale that dwarfs the abuse of public power our forefathers outlawed. It’s time we outlawed this new form of abuse. We should start by reforming the 1872 Mining Law. But we shouldn’t stop there. ✎

*Sen. Dale Bumpers is sponsoring legislation to change the 1872 Mining Law; US Senate, 229 Dirksen Bldg., Washington, DC 20510; phone 202/224-4843. Mineral Policy Center, 1612 K St. NW Suite 808, Washington, DC 20006; phone 202/887-1872.*



BY MARJORIE KELLY



The Goldstrike mine was “patented” in 1994 for \$9,000.