news

Committee on Interior and Insular Affairs
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MINING LAW BEING USED FOR LAND SPECULATION
Land Grab Near Ski Resorts and Gambling Casinos
MINING SUBCOMMITTEE CHAIRMAN RAHALL CALLS FOR REFORM

WASHINGTON, D.C. -- Under the guise of a mining law enacted when Ulysses S. Grant was President, valuable federal lands near ski resorts and gambling casinos are being transferred to private interests at fire sale prices, U.S. Rep. Nick J. Rahall (D-WV), chairman of the House Subcommittee on Mining and Natural Resources, said today.

Rahall said that an investigation conducted at his request by the U.S. General Accounting Office (GAO) found that at just 20 of these sales the federal government received less than $4,500 for land estimated to be worth up to $48 million. Meanwhile, 12 pending applications reviewed by GAO for public land with an appraised value of up to $47 million would be sold for only $16,000.

"This is outrageous. At $2.50 an acre these valuable federal lands are being transferred out of public ownership for fast food hamburger prices," Rahall charged. "The intent of the mining law is to facilitate mineral extraction, not to serve as a vehicle for land speculation and profiteering at the public's expense."

The GAO report, entitled "The Mining Law of 1872 Needs Revision," examined whether provisions of the law promote the diligent development of mineral resources and conform with current natural resource policies. Under the law, claims to valuable deposits of minerals such as gold and silver on public lands can be "patented" for $2.50 an acre. The patent transfers fee simple title to the land from the federal government to the private claim holder. About 3.2 million acres of land, representing an area the size of Connecticut, have been sold in this manner.

"Escalating land prices, primarily near expanding communities, resort areas, and tourist attractions, have made the act's patent provision an attractive means of acquiring title to valuable land for nonmining purposes. This, coupled with the nominal cost of gaining title to the land, has resulted in some patent holders reaping huge profits at the government's expense," the GAO report states.

"These federal lands are owned by all of the people and should be held as a public trust. We are being done a grave injustice by these give-aways and this law must be changed," Rahall said.

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Finding that patenting land is not essential for mineral exploration and development, the GAO is recommending that Congress eliminate the practice. Short of a full repeal, the GAO recommended that Congress limit patents only to the minerals, which would leave the surface estate in federal ownership, or require the federal government to receive fair market value for the land patented.

Among the examples cited by GAO in support of its recommendations are:

* A 160-acre claim near the Keystone, Colorado, ski resort that was patented in 1983 for $400 ($2.50 an acre); 44 acres were offered for sale last year as part of a real estate development for about $484,000 ($11,000 an acre). No mining has taken place on the claim. If all $160 acres were sold at this price the property would be worth $1.8 million.

* Two patent applications filed in 1985 totaling about 60 acres in a scenic section of a national forest near the Breckenridge, Colorado, ski area. The site is located adjacent to a new housing development. No recent mining activity was evident. If the area is patented, the government would receive $201 for land with an estimated fair market value of about $12 million.

* A 1,280-acre patent application filed in 1987 for claims adjacent to the National Park Service's Lake Mead National Recreation Area. The site is within three miles of nine gambling casinos in Laughlin, Nevada. If patented, the government would receive $3,200 for land valued by a local realtor at between $25.6 million and $32 million.

"I certainly recognize that the Mining Law of 1872 has fostered the development of many valid mining activities over the years," Rahall said. "However, if we as a Nation are to continue to have a mineral exploration and development regime that is responsive to our national security and economic needs in the future, then we must move today to mitigate the ever increasing threat to serious hardrock mining enterprises that comes in part from some very basic aspects of the Mining Law of 1872 itself. This threat includes the patenting provision and the lack of a diligence development requirement."

The GAO also examined the Mining Law's requirement that holders of unpatented claims annually perform at least $100 worth of development-related work on them. "Much of the work done or certified to have been done by claim holders to meet the mining law's annual work requirement has not brought the claims any closer to development, and the requirement is difficult for federal land managing agencies to enforce," GAO found.

Noting that 170 years ago, $100 represented a sizeable annual investment, GAO recommended that Congress now require claim holders to pay an "annual holding fee" in place of the existing annual work requirement. GAO found that the existing nominal $100 requirement not only fails to encourage mineral development, it can often result in needless land disturbance.

Chairman Rahall has undertaken the first comprehensive review of the Mining Law of 1872 by a Congressional Subcommittee in over a decade and has stated his intention to modernize the law so that it will promote the diligent development of minerals, rather than rank speculation in public lands.