

# news

*Committee on Interior and Insular Affairs  
Morris K. Udall, Chairman*

*House of Representatives  
Washington, D.C. 20515*

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**MINING LAW OF 1872 PROPOSED FOR REVISION**  
**LAW GOVERNS GOLD, SILVER AND "HARDROCK" MINERALS MINING**  
*House Mining Subcommittee Chairman Rahall Says*  
*Bill Would Eliminate 118-Year Old Abuses And Deficiencies*

**WASHINGTON, D.C.** -- The first legislation in over a decade before the U.S. House of Representatives to revise the Mining Law of 1872 was introduced today by the chairman of the Subcommittee on Mining and Natural Resources, U.S. Rep. Nick J. Rahall (D-WV).

"This legislation revises the Mining Law to eliminate some of its 118-year old abuses and deficiencies. At the same time, it will ensure the availability of a continued supply of minerals so desperately needed for the health of our economy and the maintenance of our very standard of living," Rahall stated in introducing the "Mineral Exploration and Development Act of 1990."

The Mining Law of 1872 allows mining claims to be located on western public domain lands for minerals such as gold, silver, lead, copper and zinc. No payments of any kind for the use of federal lands are required and a claim holder need spend only \$100 per year in order to maintain a claim. If valuable minerals are found, the claim holder can purchase the land for \$2.50 an acre. Despite repeated attempts stemming almost from its enactment to reform the Mining Law of 1872, it survives today as the last vestige of such 19th Century western settlement measures as the Homestead Act. The House of Representatives last considered Mining Law legislation during the mid-1970s.

"This bill is aimed at providing a focal point for debate in the House of Representatives, after a hiatus spanning more than a decade, on some very pressing issues facing the future of mineral exploration and development on public domain lands in this country," Rahall stated. "I believe that we have already passed the point in time when this 19th Century law can be depended upon to serve the country's 21st Century mineral needs."

Addressing the need for legislation, Rahall said: "While the Mining Law has remained static, the world around it has evolved. Despite administrative and judicial attempts to twist and mold the Mining Law of 1872 into some semblance of compatibility with the mineral requirements, modern business practices, and public land use philosophies of today's America, some of the more archaic provisions of the law that thwart efficient mineral exploration and development remain. Nothing short of legislation can fix this situation."

The bill would:

*\* Eliminate the give-away of public domain lands for a mere \$2.50 an acre under the "patenting" provisions of the Mining Law of 1872. The bill maintains all public domain lands open to the location of mining claims in federal ownership.*

*\* Clear the public domain of stale mining claims and halt non-mining uses of claimed land. The bill requires diligent development expenditures to be made on mining claims and the enforcement, through audits, of reported expenditures.*

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**\* Provide for a return to the public through rental fees.**

**\* Eliminate loopholes in current law through which mining claims are located for types of mineral materials such as sand, gravel and clay rather than being subject to sale by the federal government.**

**\* Require the reclamation of surface-disturbing mineral activities and the inspection and enforcement, including through civil penalties, of surface management regulations.**

**\* Cause mining claim activities to be considered in BLM and Forest Service land use plans.**

**\* Transfer jurisdiction for mining claim activities on National Forest System lands from the BLM to the Forest Service.**

"This legislation says, quite simply, that once you locate and record a mining claim, your possessory rights are protected against any other party so long as there is compliance with the rental, diligent development and filing requirements of the bill," Rahall stated. In explaining these provisions, he said that the proposed rental rate would not be set so as to burden small prospectors, yet at the same time, it would provide some return to the public for the use of their lands. Similarly, the proposed diligent development requirements of the legislation would be set low enough during the first few years after the recordation of a mining claim so as to facilitate, and not hinder, mineral prospecting and exploration activities.

The bill also recognizes what Rahall termed "some other basic values held by our society" by requiring that mineral development be subjected to surface management regulations and the land-use planning process. It also dispenses with the Mining Law's authority to dispose of public domain lands. In addition, it seeks to provide for better administrative efficiencies by vesting jurisdiction over mining law activities with the surface management agency involved.

Rahall, who in the Congress represents a southern West Virginia coal mining region, has been a strong proponent of responsible mineral development. In 1987 he challenged industry and environmentalists to drop their long-standing mistrust of each other on Mining Law issues and work together toward a mutually acceptable legislative package. As a result, a "dialogue" group was formed and continues to meet on a sporadic basis. "This is the sort of forum that I hope to look towards for consensus recommendations on some of the issues raised by this legislation, especially in the areas of surface management and land use planning," Rahall stated.

Joining Rahall in the introduction of the bill was Rep. Bruce Vento, the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Noting that his legislation has been a year in the making, with input solicited from interested parties, Rahall said that he is mindful of the divergent views held by those with an interest in the matter. "I anticipate that the mere introduction of legislation to reform the Mining Law of 1872, regardless of the contents of the bill, will be roundly criticized by certain parties. I also realize that there will be those who will say this bill does not go far enough, or goes too far, in its proposals to revise the Mining Law regime," he said.