

# PROTECTING AMERICA'S WATERS FROM IRRESPONSIBLE MINING:

## Close the Clean Water Act's Mining Waste Loopholes



### TRIBES AND HARDROCK MINING

American Indian tribes across the United States have been severely impacted by the tailings and other toxic waste dumped into America's waterways by the metals mining industry. Tribes own and manage nearly 95 million acres of land, much of it consisting of large intact habitats, abundant wildlife, clean water and air, and unique cultural and historic resources. Nearly 2 million acres of Indian lands are subject to mineral leases administered by the U.S. Department of the Interior. Hardrock mines disproportionately impact the environment, health, and culture of Native communities.

Historically, mining on and near tribal lands occurred with minimal input from tribes. Beginning in 1891, Congress passed a hodge-podge of federal laws allowing mining companies to lease minerals on tribal lands--often without tribal consent. Until the early 1970s, Indian mineral owners were passive leaseholders with little authority over mining operations, waste disposal, the location of roads and other infrastructure, or the use of timber, water, and gravel. Tribal communities bore the impacts to air, water, and sacred sites while government agencies and corporations made the decisions about leasing and mining practices.



America's desire for gold and other valuable metals also led to tribes being divested of traditional lands with the potential for mineral development. Bowing to public pressure for access to deposits found on tribal lands, the federal government sometimes renegotiated treaties, adjusted reservation boundaries, and pressured tribes into selling mineral-rich land. As a result, hardrock mines were--and continue to be--developed in close proximity to Native communities.



For more information, please contact:

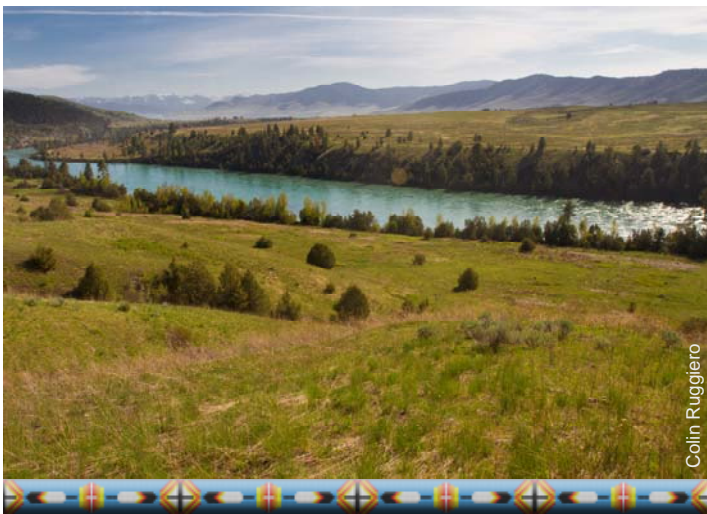
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## Impacts to Tribes and Tribal Land

Hardrock mining has devastated tribal communities. Many mines, such as the Zortman-Landusky mine, south of the Fort Belknap Indian Reservation in north central Montana, and the silver, lead, and zinc mines of Idaho's Silver Valley, adjacent to the Coeur d' Alene Reservation, polluted public water systems, poisoned fish and wildlife populations, and contaminated sacred areas before becoming federal Superfund sites. Other mines, such as the Midnite uranium mine in eastern Washington, created serious health risks.



These impacts are not relics of the past or limited to mines in the western United States. A wave of exploration and mining is sweeping the country, including the landscape of the upper Great Lakes region where Indian tribes have ceded vast territories that are still used to support subsistence living and spiritual practices. One new hardrock mine is under construction, two more are obtaining permits, and at least a dozen more mines are being considered. Thousands of exploratory drill holes now pock the region from top to bottom. The owner of the first of these new mines, Rio Tinto, has already fenced off, blasted, and tunneled into Eagle Rock, a sacred site, despite the company's knowledge that Eagle Rock has been used for ceremonial purposes since "time immemorial."

Native Americans are especially vulnerable to the effects of hardrock mining. In addition to living in rural areas where most mines are located, many



people on Indian reservations live at or below the poverty level and have limited access to legal, scientific, and political resources. Poorer communities are at a distinct disadvantage in decision-making processes dominated by wealthy corporations and government agencies. Moreover, residents of many reservations are unable or unwilling to sever tribal, family, or land ties in order to relocate to unpolluted areas.

The impacts of mining on air, water, and fish and wildlife also affect Native Americans more than other groups of people because many Native Americans continue to practice traditional and subsistence lifestyles. The fish, game, and vegetation contaminated by mine pollution can be a critical and irreplaceable source of food for tribal members and communities. They may also play an important role in religious ceremonies and cultural traditions.



# Clean Water, Tribes, and Hardrock Mining

We can't undo the inequities of the past, but we can do something to ensure more responsible mining in the future. We can close two regulatory loopholes in the Clean Water Act (CWA) that allow hardrock mines to treat the nearest river, lake, or wetland as a waste dump for massive quantities of toxic, acid-producing tailings.



One of the most important goals of the CWA is to prohibit the use of our nation's waters as dump sites for pollution. Unfortunately, federal agencies in years past undercut that goal by adopting two regulations, each of which allows mines to discharge untreated industrial waste into our waters.

The mining industry is the single largest source of toxic waste and one of the most environmentally destructive industries in the country. Today's massive mining operations involve blasting, excavating, and crushing many thousands of acres of land and treating the ore with huge quantities of toxic chemicals such as cyanide and sulfuric acid.

The mines that produce our gold, silver, copper, and uranium are notorious for polluting adjacent streams, lakes, and groundwater with toxic by-products. In fact, the Environmental Protection Agency (EPA) estimates that 40% of the headwaters in watersheds in the western United States are already contaminated by pollution from hardrock mines.

The loopholes in the CWA allow the mining industry to legally poison the waters that sustain tribal communities.



*"The destruction of water is like the destruction of the blood of the earth; you are destroying life of the earth and the people and wildlife that depend on it."*

—Carrie Dann, a Western Shoshone who has helped protect Mount Tenabo from mining for 15 years

## We Can Close the Mining Loopholes

Discharging untreated wastes into waters may be cheaper for mining companies, but it is not a necessary way of doing business. In 1975, EPA began adopting "effluent limitations" that require mines to treat their wastes and meet strict water quality standards, in some cases prohibiting discharges into waters altogether. As part of this process, EPA studied the industry and determined that the effluent standards were not only feasible but already being met by most mines. These limits, if applied consistently today, would prevent hardrock mines from "storing" their wastes in our waters. Unfortunately, the two CWA loopholes have made it possible for industry to ignore the effluent limitations in many cases.

The good news for people who care about pure water, community health, and abundant wildlife is that EPA and the Army Corps of Engineers can close the mining loopholes with two simple changes to the Clean Water Act regulations. Closing the loopholes would not prohibit hardrock mining but it would greatly reduce the negative environmental impacts of large mines.

As a nation, we decided that industries should not profit from polluting waters that sustain America's communities, fish, and wildlife. Help us close the two loopholes in the Clean Water Act that encourage irresponsible mining practices and irresponsible mines.

**TAKE ACTION!**

[www.nwf.org/miningloopholes](http://www.nwf.org/miningloopholes)

**Urge the EPA to close the mining loopholes.**

# Case studies

## Montana: Zortman-Landusky Mine

In 1884, Pike Landusky and Pete Zortman were illegally prospecting and found gold on the Fort Belknap Indian Reservation in north central Montana. Eager to open the area to mining, the U.S. government appointed a commission to negotiate a sale of the land with the Assiniboine and Gros Ventre tribes. The tribes were pressured into conveying the land and its minerals for \$360,000. For almost 100 years, tribal members used the Little Rockies for traditional activities such as vision quests and hunting while mining companies burrowed into the ground beneath them, wrenching out \$25 million in gold.

In 1979, Pegasus Gold Corporation and its subsidiary, Zortman Mining, built the first cyanide heap leach mine in the country. Over the next 18 years, the Zortman-Landusky mine expanded its operations while causing a dozen cyanide spills, including one 50,000-gallon spill that shut down the local water system. In 1993, a storm sent a stream of acid mine drainage into the town of Zortman. EPA investigated and found that the mine had been leaking acids, cyanide, arsenic, and lead from each of its seven drainages and cited the mine and Pegasus for illegally discharging pollution.

In 1996, after a spate of lawsuits, Pegasus and Zortman agreed to a detailed plan to control the mine's pollution as part of a major Clean Water Act settlement. However, the companies filed bankruptcy the following year, leaving the tribes, state of Montana, and taxpayers to pay the costs of clean up. Residents of the Fort Belknap Indian Reservation continue to suffer health problems which they attribute to contamination of their water from years of acid drainage and other pollution. According to the State of Montana, the pollution is so severe that expensive water treatment will be required in perpetuity.

## Washington: Midnite Mine

Dawn Mining Company developed the Midnite uranium mine on the Spokane Tribe of Indians Reservation in the Selkirk Mountains of eastern Washington. The mine opened in 1955 and closed in 1981. During operations, Dawn dug up approximately 3 million tons of uranium oxide ore, 2.5 million tons of low grade ore, and 33 million tons of waste rock from six pits.

Today, the Midnite mine is a federal Superfund site. Uranium-bearing rocks exposed by the mine are a source of radiation, and acid rock drainage has mobilized heavy metals. Several seeps were found to contain elevated metals and radionuclides. These seeps enter drainages leading to Blue Creek, which flows into the Spokane River arm of Lake Roosevelt. Blue Creek is an important spawning and nursery area for rainbow trout and other fish, including the Paiute sculpin, a species of special concern in the state of Washington.

Although the mine was closed more than 30 years ago, the federal government recommends that people spend no more

than one hour a day at the mine site to limit exposure to radiation and radon gas. Tribal members are also advised not to eat berries or plants gathered from the Blue Creek drainage and are warned that meat from deer and elk that forage in the drainage could pose health risks.

In 2011, the government reached a \$193 million clean-up agreement with the Newmont Mining Company and its subsidiary, Dawn Mining. The U.S. Department of Interior will contribute \$24 million for future clean-up efforts as compensation for failing to provide adequate oversight of mine operations, a violation of its federal trust responsibilities to the tribe.



## Idaho: Silver Valley

The 345,000-acre Coeur d' Alene Reservation in northern Idaho includes the Coeur d' Alene and St. Joe rivers and Lake Coeur d' Alene, considered one of the most beautiful mountain lakes in the world. Over 100 years of mining in Silver Valley east of the lake generated billions of dollars in silver, lead, and zinc--and an estimated 100 million tons of mine waste which was dumped in the Coeur d' Alene watershed. In 1929, a Coeur d' Alene newspaper reporter described his trip to Silver Valley as "Up the River of Muck and into the Valley of Death."

Today, Silver Valley is the nation's second largest Superfund site. The Coeur d' Alene River is highly contaminated with heavy metals and virtually no aquatic life can survive in one ten-mile stretch. Hillsides are so acidic that trees planted there die or are stunted. Local residents have some of the highest blood-levels of lead ever measured in humans.

Clean-up of the Silver Valley Superfund site is expected to cost \$200 million. The Coeur d' Alene Tribe has assessed the natural resource damage to the river, its tributaries, the lateral lakes, and Lake Coeur d' Alene at over \$1 billion. The tribe, working with federal agencies, has taken the lead role in clean-up efforts and stewardship of the basin.