

Perspective

A way to clean up toxic mines Time to ease legal shackles

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O Fellow Westerners, we offer you a once-in-a-lifetime opportunity: a chance to push for a good cause that has no opposition. Acid mine drainage, the toxic brew of heavy metals and acidic water that drains from thousands of long-abandoned hard-rock mines, has no supporters, no fans, no advocates and no champions. The cleanup of abandoned mines offers a rare 21st century occasion for action based on the recognition of a common good.

Although Hollywood would ultimately adopt the cowboy as the pre-eminent regional symbol, miners and their rushes to the West's gold and silver fields played a more consequential role in the westward expansion of the nation. Miners brought to the West the commercial, financial, transportation, political and legal networks needed to support and protect their mining enterprises. The legacy of mining lies everywhere we look: the construction of railways and roads, place names, the location of cities and state lines, and the treasured memories and myths that many Westerners – and Western tourists – hold of the color and energy of the mining booms.

And Western mining revolutionized the material life of Americans. The availability of minerals made possible indoor plumbing and electricity, metal coinage, fireworks for the Fourth of July and even talc for babies' bottoms. In great part, we owe the meteoric rise in the American standard of living in the 20th century to the miners' Herculean production of commodities.

Acknowledging mining's historical importance and its benefits to our society, we must also reckon with its environmental legacy. It is a difficult problem, but it is a problem that comes with solutions and a sound basis for hope.

Miners of the 19th and early 20th centuries noticed that the liquid runoff from their piles of waste rock seemed to kill off fish, and they knew

better than to drink immediately downstream from their claims. But most miners moved on after they extracted the minerals, and they gave little thought to what they left behind.

The waste ore they left behind on the ground chemically reacted with water and oxygen, producing acidic water runoff laden with toxic heavy metals such as zinc, lead, arsenic and cadmium. Flowing into streams, these metals can kill off much or all of the plants, insects and fish. Acid mine drainage wholly or partially spoils – for fishing, hiking and hunting – thousands of miles of streams and watersheds throughout the West. That means lost revenue for communities whose economic well-being depends on outdoor recreation.

And this is not just a problem for the outdoorsy crowd and mountain communities. Mine pollution finds its way into Front Range municipal water supplies, and cities such as Golden have spent hundreds of thousands of dollars to remove it.

So why not get busy and clean up the abandoned mines for which there are now no responsible or financially viable owners?

Begin to answer that question and you enter a central arena of unintended consequences. A major obstacle to abandoned mine cleanup is one of our country's most important landmark environmental laws, the Clean Water Act. This act, passed into law in 1972, sought to prevent industry from discharging pollutants into waterways, and it has been very effective in cleaning the nation's rivers and lakes.

So why is the Clean Water Act a problem?

By recent legal interpretations of this law, an individual or a group of people who want to clean up a mine site would expose themselves to the strict requirements and financial liability prescribed by the Clean Water Act. Environmental Good Samaritans who have no prior connection with a mine site (and who certainly hold none of the profits from the mine) and who simply want to clean up the mess could be saddled with the penalties and perpetual financial responsibility, as if they had been responsible for causing the pollution. This application of the Clean Water Act has discouraged many would-be environmental Good Samaritans from undertaking mine cleanups all across the state and region.

This situation does not reflect the intentions of the law's initial supporters. As John Whitaker, President Nixon's environmental policy adviser and an important participant in the creation of the Clean Water Act, has said, the framers of this law never contemplated the cleanup of

acid mine drainage. 'We should have had more foresight,' he has declared.

So is it too late to remedy this lapse and omission? No.

In 2006, a growing coalition of legislators and policy-makers, environmental organizations and mining-industry groups, state and federal environmental agencies and local watershed communities have reached a consensus: Congress should modify the Clean Water Act to allow altruistic Good Samaritans to undertake the cleanup of abandoned mine pollution without fear of crushing penalties and liabilities.

On Jan. 11, the Center of the American West at the University of Colorado held a news conference in cooperation with a distinguished panel of federal and state officials and office-holders, as well as representatives from Trout Unlimited, the Colorado Mining Association, the Western Governors' Association and the U.S. Forest Service, to express in one voice the need for Good Samaritan relief to open the way for more mine cleanups.

Members of Congress understand the need for this relief and are already moving to supply it. Colorado's U.S. Sen. Ken Salazar, with the co-sponsorship of Sens. Wayne Allard and Harry Reid, has introduced a bill in the Senate. In the House, Rep. Mark Udall, with the co-sponsorship of Diana DeGette, Bob Beauprez and John Salazar, has done the same.

As many have remarked, the stars appear to be lining up for the removal of a major obstacle to the cleanup of one of the West's biggest environmental messes. Let your elected representatives know that you support Good Samaritan legislation, and we can begin prospecting for a better future for one of Colorado's two greatest resources, its natural beauty.

And this unusual exercise in uniting our energy to support a common cause might also lead to a better future for this state's other great resource: its lively, loyal and lucky citizens.

Patty Limerick and Tim Brown are among the co-authors of the Center of the American West's latest report, "Cleaning Up Abandoned Hardrock Mines in the West," posted at www.centerwest.org/ [<http://www.centerwest.org/>].

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