

# United States Senate

WASHINGTON, DC 20510

April 23, 2008

The Honorable Jeff Bingaman  
Chairman  
Senate Committee on Energy and Natural  
Resources  
304 Dirksen Senate Building  
Washington, DC 20515

The Honorable Pete Domenici  
Ranking Member  
Senate Committee on Energy and Natural  
Resources  
304 Dirksen Senate Building  
Washington, DC 20515

Dear Chairman Bingaman and Ranking Member Domenici:

As the Senate Energy and Natural Resource Committee works to reform the 1872 Mining Act, we wish to voice our support for a royalty that is fair and equitable and makes good fiscal sense.

For 136 years, under the 1872 law, valuable minerals mined on federal lands have been given to private interests for free. By comparison, other extractive industries—oil, gas, coal—pay a royalty when operating on public lands. We believe that a properly structured royalty is fiscally and environmentally responsible. Therefore, the Senate should adopt a royalty structure based on gross income or net smelter return. A royalty of this nature limits opportunities for abuse and ensures that the royalty can automatically adjust to changes in the market and not over- or undercharge. Furthermore, according to the Mineral Business Appraisal, “[net smelter] royalty payments are also fairly simple to calculate and administer in that only the selling price and quantity of mineral product produced or sold are required for their determination.”

Secondly, we urge the Senate to adopt a strong royalty for both existing and new mining operations in order to provide parity among the extractive industries and also ensure a fair return for the use of taxpayer-owned public lands. Mining companies not only mine for free on public lands (which is not the case for mining on state or tribal owned lands), but they also benefit from preferential tax treatment that other industries do not receive. Mining companies are allowed to expense certain costs for exploration and development, as well as deduct the costs of closing a mine and the associated reclamation costs before a mine is actually closed.

Additionally, mining companies receive a Percentage Depletion Allowance, which is a fixed percentage deduction against gross income, despite the fact that they have not paid for the mineral in the first place. Because of the way the depletion allowance is applied, mining companies may actually receive more in deduction credits than their investment in the mine. And the combination of tax preferences and other more standard deductions available to them means that mining companies often pay an effective tax rate much lower than the statutory corporate rate of 30 percent.

By imposing royalties and repealing the Percentage Depletion Allowance for mining on public lands, additional funding will be available to address the approximately 500,000 abandoned mines across the United States without shifting this significant burden to taxpayers.

We urge the committee to include these necessary elements of reform in its efforts to bring the antiquated mining law into the 21st century. We look forward to working with your offices to this end.

Sincerely,



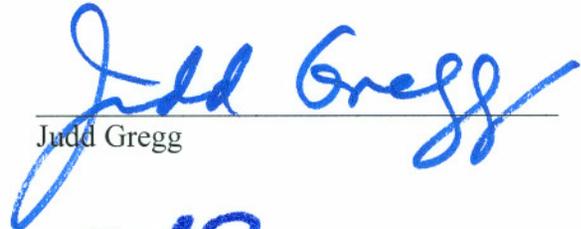
Russell D. Feingold



John E. Sununu



Maria Cantwell



Judd Gregg



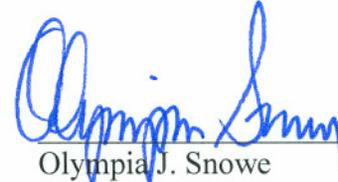
Jack Reed



Sheldon Whitehouse



Robert Menendez



Olympia J. Snowe



Benjamin L. Cardin



Bernard Sanders

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