

perspective

## Mines staking a claim

As claims approach cities, reform urgent

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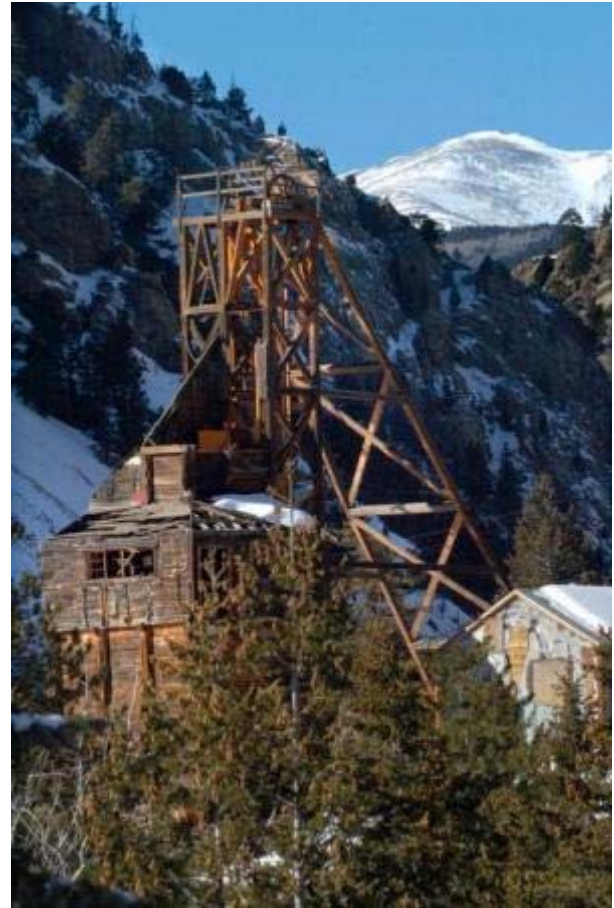
Thousands of new mining claims have sprouted near Colorado cities and towns, including the densely populated Front Range and mountain resorts. These stakes aren't relics of a bygone era; they all have been filed in the past five years.

But federal law gives communities no real say in whether they want new mines next door. In fact, even federal agencies can't say "no" if mining companies want to dig for gold, silver or other hardrock minerals in pristine parts of our national forests or a stone's throw from our national parks.

This appalling situation exists because Congress has allowed metal mines to operate as if our region was still the Wild West, governed by the antiquated 1872 General Mining Act.

The urgent need for reform is shown by a recent analysis of U.S. Bureau of Land Management data, conducted by the Environmental Working Group. According to the data, in January 2003, there were 5,430 claims to mine gold, silver,

copper, uranium and other metals in Colorado — not surprising in a state founded on 19th century gold and silver booms. What's shocking is



(Digital | Jerry Cleveland)

that there are now 23,473 claims in Colorado alone — a fourfold increase in just the past five years.

Equally startling is where the claims have been staked, as of this year: 396 in the Boulder-Longmont area, 19 by Aurora and Centennial in south metro Denver, and six east of Colorado Springs. Along the rivers that feed Lake Dillon, source of much of metro Denver's drinking water, the numbers are sobering: 183 near Keystone, 216 close to Blue River and 86 around Montezuma. There are 161 claims close to Black Hawk and 227 by Central City, both tourism-dependent gaming towns. Ski towns are at the center of the mining claims rush: 671 near Crested Butte, 55 in the Breckenridge area, 36 overlooking Telluride and even nine near Vail.

So today, thousands of Coloradans live within 5 miles of new mining claims. Yet there's not much that towns can do if they think open-pit mines or cyanide processing operations are inappropriate in their watersheds or recreation areas. Despite a flurry of 20th century laws, the 1872 act still gives metal mining priority over other considerations. For example, in December, the U.S. Forest Service had to let miners proceed with exploration near Grand Canyon National Park in Arizona.

Closer to home, Crested Butte fought a years-long court battle to prevent a mining company from taking control of Mount Emmons in the municipal watershed, but courts rejected the community's case. In the 1990s, southwest Colorado learned a bitter lesson about lax laws from the Summitville mine mess.

Today's new claims rush is generated largely by a run-up in metals prices — and partly,

perhaps, because of a different sort of modern gold in Colorado's high country: real estate.

The 1872 law that governs metal mining in the West still lets any U.S. citizen stake a free mining claim on federal land, even in popular recreation sites or national forest roadless areas. Then the stakeholder can patent — that is, outright buy — what was public property for no more than \$5 per acre. Although Congress put a moratorium on patenting in 1994, the underlying law remains and new claims keep getting filed. Hundreds of such claims are being staked around the fringes of Colorado resorts, where real estate sells for millions of dollars. The minerals never need be extracted: condos, hotels and even a casino all have been built on mining patents.

Either way, the public gets locked out of what used to be federal land, unless taxpayers or non-profit groups fork over big bucks. Last year, the Trust for Public Lands and the Colorado Conservation Trust, at a cost of \$3.25 million, bought back mining claims that blocked public access to Wilson Peak, an iconic fourteener in southwest Colorado.

Paradoxically, while hardrock claims cost taxpayers money, metal mines don't pay federal royalties — unlike coal, oil and gas operations that pump billions of dollars into Uncle Sam's coffers. The industry deflects attention by saying metal mines pay other taxes, but those shouldn't be confused with royalties. In most countries, mines pay up to 12 percent royalties, an expert told a U.S. House committee last fall.

In fact, the Congressional Budget Office estimated that in fiscal year 2005, the value of hardrock mineral production on public land reached \$600 million. And in 2001, the Seattle Post-Intelligencer reported that a mining company took possession of \$10 billion worth of gold in Nevada by paying the federal government just \$10,000 to patent the land — without having to incur the responsibility of royalties.

The U.S. House passed bipartisan reform legislation last November thanks in part to Colorado Reps. John Salazar, Mark Udall, Diana DeGette and Ed Perlmutter. The U.S. Senate hasn't yet followed suit, but several hearings already have been held by the Senate's Energy and Natural Resources Committee, on which Colorado's Sen. Ken Salazar serves. A bill is anticipated shortly.

In the coming months, Sen. Salazar and his colleagues have the opportunity to bring the nation's 19th century mining law into the 21st century by overhauling the 1872 mining law. Real reform should include:

- Ending the policy that gives metal mining priority over conservation and other public uses;
- Requiring metal mines to protect water resources and comply with modern environmental standards;
- Protecting national parks like the Grand Canyon, as well as national forest roadless areas and key wildlife corridors;

- Giving towns, counties and Indian tribes a meaningful say in whether new mines open near their communities;
- Requiring metal mines to pay federal royalties, similar to those paid by oil, gas and coal companies; and
- Ending the patenting process so that public lands will remain in public hands.

It is high time Congress gave the New West a mining law for our era.