



Briefing  
Western Caucus  
Hardrock Mining  
April 19, 2016



# Agenda

- State of the Hardrock exploration and development industry
- Key issues, regulations, actions impacting mine development in the U.S.
  - EPA
    - EPA CERCLA §108(b) Financial Assurance Rulemaking
  - SAGE GROUSE
  - GOOD SAMARITAN LEGISLATION

These all add up to Permitting Delays and Uncertainty

# STATE OF DOMESTIC MINING

- Weak market conditions / Increasing federal regulation and withdrawals
  - Commodities
  - Development issues—permitting delays, withdrawals ...
  - Uncertainty
  - Decreased investments in U.S. projects.
  - National security issues

# EPA CERCLA §108(b) Financial Assurance Rulemaking

**NO GAPS, DEFICIENCIES IDENTIFIED**  
**Duplicative. Costly. Unnecessary.**

- BLM, USFS and the states have robust financial assurance requirements
  - BLM holds more than \$2 billion in financial assurances
- Since 1990, BLM and USFS have approved over 3,300 mining Plans of Operations
- NONE of these have been placed on the CERCLA NPL.

# EPA CERCLA § 108(b) Financial Assurance Rulemaking

The Western Governors' Association ***unanimously*** adopted Policy Resolution 2014-7 opposing EPA's attempt to create a **CERCLA 108(b) financial assurance program as duplicative and unnecessary** stating:

- ***States currently have financial responsibility programs*** in place that are working well
- ***Functional programs should not be duplicated*** or pre-empted by any program developed by EPA pursuant to Section 108(b) of CERCLA.



# EPA CERCLA §108(b) Financial Assurance Rulemaking

## **Action Items:**

- Hold an oversight hearing on EPA's CERCLA 108(b) Framework and plans.
- Support language in the Senate and House Interior and Related Agencies appropriations bills prohibiting the EPA from finalizing and implementing any regulation establishing financial responsibility requirements for hardrock mining.
- Insist that EPA provide the financial assurance industry a capacity study required by the Consolidated Appropriations Act of 2016.

# SAGE GROUSE



The restrictions on economic activity in the LUPAs are **more restrictive than a listing**.

- Price for "not warranted" is too high
- 10 million acres of withdrawals (mineral development) in 6 western states.
- Significant restrictions on livestock grazing, resource development, solar and wind energy, and public access.
- This has created uncertainty, and decreased mineral development investment dollars in the U.S.

# SAGE GROUSE



- LUPAs are being challenged in federal court by two governors, a state legislature, counties in two states, mining, oil & gas and grazing interests, and environmental NGOs
- 3 U.S. Department of the Interior officials—who dubbed themselves the “Grouseketeers” in internal correspondence--**reveals a reversed engineered process**
  - Met with environmental groups **after** the public comment period had ended to gauge how those groups would react to amendments created under the land-use plans.
  - Ignored the concerns of agency professionals who **raised the need** for a supplemental environmental impact statement, socioeconomic impact analysis and further scientific data to support the proposed land-use restrictions—all in violation of federal law.

# SAGE GROUSE



- WMC supports a FLPMA sec. 202(e)(2) concurrent resolution disapproving of all land use decisions that eliminated one or more uses from 100,000 or more acres for 2 or more years
- WMC supports H. R. 4739
- WMC supports language in the appropriations bills that prohibits a listing, prohibits mineral withdrawals and implements state plans
- **Art. IV sec.3 of the Constitution gives Congress plenary power to make all rules and regulations affecting federal land – use it**

# Good Samaritan (AML)

- Protecting the public interest and ensuring more effective and efficient clean-up of legacy sites
- House and Senate have bills being developed that address eligibility and liability issues, processes and funds for dealing with abandoned mine lands
- Effective Good Samaritan legislation should:
  - Allow mining companies to qualify as good Samaritans;
  - Implement state or federal delegated programs after public comment, site-specific planning and review of projects;

# Good Samaritan (AML)

- Allow both state and federal regulators discretion to adjust requirements, standards, and liability protection for specific projects; and
  - Use remedial actions such as reprocessing without limiting use of proceeds which may be the most efficient and least costly method of clean-up.
  - Disallow citizen suits
- **WMC supports Good Sam legislation that creates meaningful, workable programs & eliminates citizen lawsuits which would block responsible cleanups.**

# PERMITTING DELAYS

- Creates an environment of uncertainty, resulting in permitting delays and decreased investment in mineral development in the U.S.
- Unnecessarily inhibit job creation and increase our dangerous dependence on foreign sources of critical and strategic minerals.



QUESTIONS?

