

**Congress of the United States**  
**Washington, DC 20515**

May 22, 2013

Nancy Sutley, Chair  
CEQ  
722 Jackson Place NW  
Washington, DC 20503

Bob Perciasepe,  
Acting Administrator  
EPA  
1200 Pennsylvania Av. NW  
Washington, DC 20460

Jo-Ellen Darcy  
Asst. Secretary of the Army  
(Civil Works)  
108 Army Pentagon  
Washington, DC 20310

Dear Ms. Sutley, Mr. Perciasepe, and Ms. Darcy:

We are writing to urge the closing of two loopholes in the Clean Water Act's (CWA) implementing regulations. These loopholes allow hardrock mines to store untreated industrial waste in the nation's rivers, lakes, and wetlands, and addressing them will promote the protection of America's waters and support responsible mining practices.

According to EPA estimates, the hardrock mining industry is the biggest producer of toxic waste in the country. The agency calculates that mining is responsible for polluting 40% of the headwaters in western watersheds. These are watersheds that provide drinking water to millions of Americans, including many Native American communities, and it would be irresponsible to ignore the inherent risks associated with mining when an administrative solution exists.

Developing large mines is often complex and controversial, but there are certain practices that everyone should agree are unacceptable. In particular, hardrock mines should never be allowed to discharge untreated tailing and other industrial waste into our waters. Aquatic ecosystems are valuable and fragile resources, especially in the arid states of the Southwest and other areas across the West. Waters are also natural conduits that can carry pollution for miles if a tailings dam is improperly built, fails, or deteriorates with age. Nobody wants chemicals, heavy metals, or acid drainage—all by-products of modern mining—to taint the waters in which our families fish, drink, and swim.


Unfortunately, there are currently two loopholes in the Clean Water Act's regulations that allow many hardrock mines to cut costs by discharging untreated industrial waste into a nearby river valley or wetland. Modern mines produce millions, sometimes billions of tons of waste, frequently containing toxic chemicals such as arsenic, cadmium, and lead. Some hardrock mining operations have used these loopholes to avoid complying with pollution standards adopted decades ago by EPA.

Please take immediate steps to close the CWA's mining loopholes by revising EPA and Corps regulations to (1) clarify that the waste treatment system exclusion applies only to manmade waters and (2) exclude waste discharges that are subject to effluent limitations from the definition of "fill material."


Thank you for your attention to this matter. We look forward to your reply.

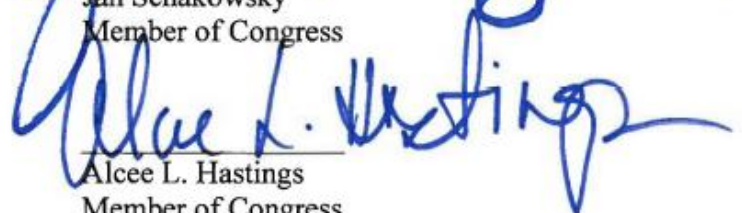
Sincerely,


  
Raul M. Grijalva  
Member of Congress

  
Colleen Hanabusa  
Member of Congress

  
Rush Holt  
Member of Congress

  
Jan Schakowsky  
Member of Congress

  
Alcee L. Hastings  
Member of Congress

  
Mike Honda  
Member of Congress


  
Barbara Lee  
Member of Congress


  
Jared Huffman  
Member of Congress

  
John Conyers  
Member of Congress

  
Louise Slaughter  
Member of Congress

  
Paul Tonko  
Member of Congress

  
Donna Edwards  
Member of Congress

  
Jared Polis  
Member of Congress

  
Mark Pocan  
Member of Congress

cc: Gina McCarthy, Environmental Protection Agency  
Bob Sussman, Environmental Protection Agency  
Nancy Stoner, Environmental Protection Agency  
Terrence "Rock" Salt, Department of the Army (Civil Works)  
Meg Gaffney-Smith, Army Corps of Engineers