

Testimony of Colin Davis for Hearing on May 9th, 2019

I. Introductory remarks

Thank you for inviting me back here to speak on the urgent need to reform the 1872 mining law in order to protect our nation's most valuable resources, our commitment to free and fair competition, and our millions of small businesses and communities living adjacent to public lands. While I came here advocating for my home in 2018, I'm advocating today on behalf of my country.

II. How an outdated law nearly destroyed one of God's greatest creations and hundreds of small businesses

I stand before you as a small business owner, a community leader, and a proud steward of one of God's greatest creations - Montana's Paradise Valley. Paradise Valley is indeed paradise - the kind that we ourselves cannot make, but can certainly enjoy. From majestic mountains and cottonwood glades, to thriving farms and ranches, the Valley offers commercial and recreational opportunities beyond number. My family and I have religiously hunted, hiked, and fished through the seasons of our dynamic landscape for generations, as my daughter who's here today can tell you. The Valley is also the doorstep of the Yellowstone National Park, through which Americans from across the country, and tourists from across the world, come to marvel at the beauty of our national treasure.

Paradise Valley is as fruitful for commerce as it is for recreation, when done right. Our family business, the Chico Hot Springs Resort, has thrived thanks to the wonders of the land it sits on. We take pride in presenting the hot springs to others, and we work hard to preserve the springs and our historic resort in the state we received them.

Hard work and independence are a way of life that has sustained our region for generations. Small businesses in and around Yellowstone are so committed to preserving this way of life that over 400 regional businesses from across the political spectrum came together to fight the greatest threat our region has ever faced. The Yellowstone Gateway Business Coalition formed to prevent two proposed gold mines from ripping apart our land, our views, and our generations-old businesses, without giving any of us who actually live here a say in how we wanted our land used.

The coalition formed with three simple principles, and we still hold these principles today:

- Number one: we are pro-business. And I can tell you that pursuing short-term profit over long-term gain is a great way to go bankrupt. That is why we support development, including mining, when the development is good for business, and we oppose it when it's not. The proposed gold mines, at commercially viable scale, would have hurt the economic prospects of thousands of Montanans, so our coalition opposed them.

- Number two: in case this needs repeating, we are not anti-mining. Our group includes members who are themselves miners. Mining, like all forms of industry, can be done well, or done poorly. It can produce a net gain or a net loss. Mining at the front doorstep to Yellowstone is a quick way to destroy both resources and the jobs of thousands of people whose businesses depend on them. Saying “not here” does *not* mean “not anywhere.”

- Number three, we believe in the sanctity of private property rights and we reject any policy that infringes on those rights. Mining that damages private business interests and property values is unjust, and the community and businesses who will bear the brunt of the impact from mining should have a say in whether and how the mining happens.. Private landowners simply cannot be saddled with the risks and costs of hard-rock mining without having any say in the matter.

These three principles are consistent with the principles of individual liberty and robust enterprise that undergird our nation and our economy. You don't have to be an environmentalist to agree that giving away public resources so that private corporations can profit at the expense of the public is both foolish and immoral. The net cost of mining gold in Yellowstone is so staggeringly high that it is hard to think anyone ever put the proposition through a balance sheet.

III. Sparing future generations this fight

A. Inclusion in public lands package

I'm not telling you all anything new. We all agree on the three principles I just shared. Both parties agree that mining on the doorstep to Yellowstone would be a terrible idea, and that's why our valuable region was permanently protected from mining under the public lands package passed this February. But reaching that common-sense conclusion wasn't a simple matter of me or any other resident of Paradise Valley explaining to you the huge net loss of mining there. It wasn't the result of a fair, transparent process in which the people who actually live in an area are consulted about how they'd like to use it. Instead, we had to take huge amounts of time, energy, and money away from our businesses and our families in order to protect them from outside forces.

Our coalition spent four years spreading the word that America was about to lose one of its greatest treasures for good, all thanks to an outdated law and unaccountable foreign corporations. The corporation that wanted to build a gold mine above Chico was not family-owned, not regional or local, not even American. Yet it stood to benefit hugely from a loophole in U.S. law, at the expense of our entire nation and especially my community. And my story is just one of many. Small business owners across the West are facing the same fight we did, and most of them do not come out on the other side with their communities and livelihoods intact.

Images and numbers capture the devastating effects of hardrock mining on the towns and businesses in its vicinity: the mustard-yellow Animus River in Colorado, swollen with 3 million gallons of contamination after the Gold King Mine disaster; the \$30,000 *per day* cost of treating contamination from the Summitville Mine, estimated to reach at least \$170 million; the 40% of *all watersheds in the West* that are contaminated from mining alone. Mining is spilling its deadly

effects across our country at an ever-expanding rate and an ever-expanding cost. Communities should have the right to “say no” to corporations that would cause these impacts in their backyards.

B. Need for 1872 reform

The problems with the existing 1872 mining law are not hard to spot. In 1872, allowing people to mine public lands without paying a penny in royalties was designed to motivate individuals to move West, and it worked. But while this may have made sense more than a century ago, this massive mining subsidy clearly is not working anymore - at least not for the American people.

There are at least glaring problems with the 1872 mining law that Congress should fix. Logical fallacies of this law are (1) its fiscal inadequacy, (2) its lack of cost-benefit analysis, and (3) hardrock mining’s disproportionate contribution to environmental expenses.

- (1) The 1872 law declares hardrock mining the “highest and best use” of public lands without accounting for other possible uses, or for the uses of adjacent private lands. Again, this special treatment afforded hardrock mining companies comes at the expense of local communities, who have no input into the development of their public lands for this purpose.
- (2) The 1872 law gives mining companies a free pass to mine federal lands without requiring them to pay the standard royalties that other extractive industries, like coal, oil, and natural gas, pay for their profit.
- (3) Finally, hardrock mining pumps more toxic pollution into our lands than does any other source, according to the Environmental Protection Agency. This means that the industry placing the biggest boot on the back of our taxpayers is also leaving the biggest footprint of pollution on the lands it claims. In Montana, the shameful legacy of irresponsible hardrock mining on public lands is still being felt—in our waterways and our pocket books.

Fixing the 1872 Mining Law is as easy as identifying its flaws. Simply apply the same standards to hardrock mining that we do to all other mining industries. Require hardrock mining companies to pay royalties and reclamation fees, so that taxpayers get their fair share of profit from mining on public lands. Require mining companies to pay for the clean-up of their operations, rather than leaving taxpayers to foot the bill. And most importantly, Give communities the opportunity to help choose the true best use of their lands, rather than letting foreign corporations decide for them.

Beyond these immediate fixes, an additional step is needed to help protect communities from hardrock mining. While other extractive industries have to meet environmental standards, there is currently no direct statutory authority for environmental protection under the 1872 law, and existing environmental laws are clearly not ensuring that mining is done responsibly. Federal land managers must be given clear regulatory authority over reclamation of mining sites, or else clean-up will continue to be no one’s job and taxpayers’ burden.

Taxpayers are subsidizing one of the most lucrative and most damaging industries in the nation for no reason other than an outdated law. We cannot let sheer inertia leave our laws in the 1800s, while our economy and population have 21st century needs.

IV. Conclusion

While it has been an honor and a privilege to work with my colleagues on the coalition, I would much rather be running my business. That is what I chose to do 16 years ago and hope to continue doing without being threatened by outdated laws. I hope Congress takes bipartisan action to update this law and allow the millions of Americans living near public lands to live in peace, knowing our businesses and communities are ours to care for and control.