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Subject: US Copper Vested Right Hearing -- Additional Submittal
Date: Sunday, December 3, 2023 9:16:32 PM
Attachments: [image003.png](#)
[image004.png](#)
[History of Mine Regulation-US Copper Corp.pdf](#)

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Tracey,

During the October 11, 2023 vested rights hearing for the Engels-Superior Mines, held before the Plumas County Zoning Administrator, several members of the public raised some environmental and safety concerns regarding mining operations. Although not directly related to the issue of whether historical evidence supports a determination of vested rights, US Copper nevertheless felt it would be helpful to address these concerns. Accordingly, I have attached an issue paper prepared on behalf of US Copper Corp that we believe addresses these concerns.

We ask that you please include the attached issue paper, along with this e-mail, into the administrative record for this vested right determination proceeding, and make it available to members of the public that raise mining-related environmental and safety concerns.

Thank you,

--Kerry



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A History of Mine Regulation in the United States

**Submitted to:
County of Plumas
Planning Department**

**Submitted by:
US Copper Corp
Engels-Superior Mines**

December 2023

Mining is an industry that has been both important and valuable to the development of the United States, and to this day creates products and goods that are essential to virtually all aspects of modern American society. However, it has also been the subject of much controversy over the past century, particularly based on historic issues of worker safety and environmental damage. While such controversies may have been warranted in the early 20th Century, advancements in technology and the proliferation of safety and environmental regulations, have significantly improved the conduct and significantly lessened the impact of modern mines, compared to historic mines.

In many ways, the controversy attached to mines now are a result of the legacy of the past, rather than the reality of mining in the present. In truth, the United States has some of the most extensive and protective environmental and safety regulations. Fully entitling an operational mine can take years, often at great expense to the project proponent. Operating mines are subject to stringent safety regulations and oversight. This article traces the development of safety and environmental regulations from their infancy to the present.

A Brief History of Mining Controversies

The history of mining in the United States dates back well before the Revolutionary War and includes all manner of resources. From construction aggregates, to coal, to precious and industrial metals and minerals, mining has a rich history in our country. Until the late 19th Century, there were no regulations, whether it be safety, environmental, and cultural, there were no controls over the conduct of mining operations. This has given mining a bad name, especially with regard to worker safety and environmental impacts. For example, some historic large scale mining operations throughout the United States dumped mine tailings, that sometimes were treated with toxic chemicals, on the land without drainage control. Toxic air emissions could also have negative (even lethal) effects on populated areas downwind of these operations. Additionally, mines were also dangerous for workers. In the early part of the 20th century, it was common for the industry to experience more than 3,000 fatalities in a single year. Many of the mines were underground, presenting dangerous working conditions often amplified by old and unsafe methods (such as candle or open flame lights), which sometimes caused explosions when gas was encountered.

While this past history, particularly as it has often been presented in the zeitgeist, makes it understandable that mining may have a negative public perception, there have been many changes over the past 150 years that are often not considered when opposing these projects.

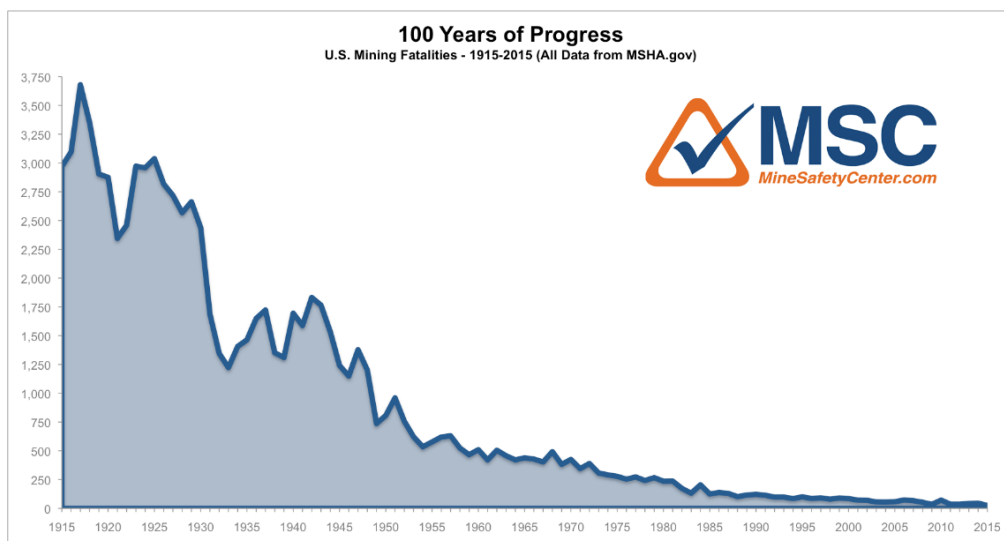
Early Environmental Regulation

The earliest documentation of environmental regulation came not from the government, but from a lawsuit brought by farmers against hydraulic mining companies in 1881 in, what is now, the Yuba River Gold Fields. This lawsuit resulted in an end to the hydraulic mining practices, which created debris and sediments that washed downstream and had a substantial negative effect on agricultural production downstream.

Early Safety Regulation

In 1842, the Mines and Collieries Act was passed. It prohibited all girls and boys under the age of 10 from working in underground coal mines. This was followed by a number of laws to protect workers. In 1910, the Bureau of Mines was established with the goal of reducing mine fatalities, followed by supporting safety legislation in 1941, 1947, 1952, 1961 and 1966. In 1977, the Mine Safety and Health Administration ("MSHA") was created, and tasked with establishing codified regulations and undertaking regular mine site inspections. Mine safety regulation, mandatory worker safety training and improvements in technology have substantially improved the working conditions for miners.

The graph below identifies the effects of mining safety implementation in the United States between 1915 and 2015. From a high of more than 3,000 fatalities in 1915, mine related worker fatalities were reduced to 23 in 2022.



Modern Environmental and Safety Regulation of the Mining Industry

In the 20th Century, laws intended to reduce the environmental consequences of mining proliferated, but without the urgency that worker safety regulation enjoyed. Particularly in the American west, the population density of undeveloped portions of the United States was in the range of less than 1 person per square mile. As a result, there were abundant resources without a whole lot of people to be affected by mining's ground disturbing activities. Communities were also often found in relation to mineral resource extraction, and were often occupied for short time periods during mining.

As the population grew in the United States and western migrations began to slow, population density increased and environmental concerns took on greater

significance. The majority of these laws took shape in the latter part of the 1960s and throughout the 1970s. These environmental protection laws included:

- 1918 – Migratory Bird Treaty Act
- 1948 – Federal Water Pollution Control Act
- 1963 – Clean Air Act
- 1969 – Porter-Cologne Act, a California-specific water quality law
- 1970 – National Environmental Policy Act ("NEPA")
- 1970 – California Environmental Quality Act ("CEQA")
- 1970 – California Endangered Species Act ("CESA")
- 1972 – Federal Clean Water Act (amending the 1948 Federal Water Pollution Control Act)
- 1973 – Endangered Species Act ("ESA")
- 1974 – Safe Drinking Water Act
- 1975 – California Surface Mining and Reclamation Act (SMARA), applicable to all mining in California.
- 1976 – Federal Land Policy and Management Act ("FLPMA")
- 1977 – Surface Mining Control and Reclamation Act (SMCRA), specific to coal mining nationwide.
- 1977 – Amendments to the Clean Water Act.
- 1981 – Federal requirements for approvals of Notice of Intent for exploration and Plan of Operations for mining operations on federal lands under FLPMA.
- 2001 – Federal requirements for Reclamation Plans and Financial Assurances.

Each of these environmental laws has been amended repeatedly to strengthen the intended result and most are subject to extensive implementing regulations, which taken together significantly reduce environmental impacts.

For example, in California, ***all operating mines*** must comply with SMARA where ground disturbance exceeds 1 acre and/or 1,000 cubic yards of resource extraction. All projects meeting the definition of mining are required to 1) obtain a permit ***or*** operate pursuant to vested rights, 2) obtain approval of a reclamation plan, and 3) post financial assurances to ensure that reclamation can be achieved in compliance with the approved reclamation plan. Mines that meet the definition of vested rights, are not required to obtain a separate surface mining permit, but are required to comply with the reclamation obligations established by SMARA. As set forth in SMARA Section 2776:

"(a) No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a use permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, he or she has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefore. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

"(b) The reclamation plan required to be filed under subdivision (b) of Public Resource Code Section 2770 shall apply to operations conducted after January 1, 1976.

"(c) Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands for surface mining operations conducted prior to January 1, 1976."

SMARA has been revised repeatedly over the years to require (to name a few):

- Annual compliance inspections,
- Posting of financial assurances equal to the cost of reclamation in compliance with the approved reclamation plan,
- Requirements to identify specific performance standards to ensure reclamation adequacy.
- For certain metallic mines, requirement for backfilling mine pits with overburden to establish approximate original contour of the mined lands.

SMARA is implemented by local lead agencies to ensure that local standards are observed in the approvals and compliance mandates outlined in the reclamation plan. Each mine must be inspected annually to ensure compliance with permit and Reclamation Plan requirements. Financial assurances must also be revised annually to ensure that changes in site conditions and inflation are accounted for.

Since the adoption of SMARA, the number of mines in the state have been substantially reduced. This is, in part, the result of more stringent permitting requirements, but has also been affected by expanding urbanization. Reclamation of mined lands now results in useable land that is then suitable for ***other*** beneficial uses, including natural habitat uses or urban development.

Mining in Plumas County

Historically, Plumas County has been host to more than 800 mines. The vast majority of these sites were specific to gold production and were limited to small areas. In addition to gold, there have also been a number of copper, silver, and mineral mines. Presently, the California Department of Conservation identifies 20 individual sites within Plumas County, of which 18 are sand and gravel production operations, which supply material construction and continued maintenance of essential infrastructure like roads and buildings. With limited exception, these sites are small and have received little-to-no public scrutiny or concern.

The population of the United States exceeds 330-million, but there are only 25 copper mines in production across the nation. U.S. copper production falls well short of meeting current demand, and American industry must rely on imports from foreign countries. As our energy production shifts towards renewables, the demand for copper will continue to increase.

In closing, early mining projects were unregulated and many were host to hazardous working conditions and left significant impacts on the environment. However, over time, as the population expanded, citizens pressed government to initiate controls to protect workers and the environment. Over the past 50 years, significant regulations and practices have been implemented to improve the industry's performance in both worker safety and environmental protection. As our Country's population continues to expand, the demand for mined products will only continue to increase. Copper is especially critical for our transition to renewable energy and we are forced to rely on imports to meet full demand. Production – from historic mines operating under modern environmental and safety standards – are a necessity.