

FOR IMMEDIATE RELEASE

November 6, 2007

Contacts:

Lisa Evans, Earthjustice, (781) 631-4119

John Robison, Idaho Conservation League, (208) 559-0283 x 13

Dan Randolph, Great Basin Mine Watch, (775) 348-1986

Brian Shields, Amigos Bravos, (575) 758-3874

Kathy Andria, Sierra Club, (618) 567-0233

CLEANUP TAB FOR MINES SHOULD NOT FALL TO PUBLIC
Conservationists seek to close loophole: taxpayers could save billions

Washington, D.C. – Conservation groups are taking action to make it harder for mining and other polluting industries to skip out on costly cleanups by declaring bankruptcy.

The public interest law firm Earthjustice announced today it is representing community groups in Illinois, New Mexico, Nevada, and Idaho, in a lawsuit to prevent future problems in areas riddled with toxic mine sites.

The announcement follows last week's House approval of the Hardrock Mining and Reclamation bill. Among other things, the bill requires operators of gold, silver, and other hardrock mines to post a bond to cover future cleanup costs before receiving a permit to mine on public lands.

This new effort will pick up where the House-approved measure leaves off, ensuring that mines on private lands (in addition to public lands) be subject to federal bonding requirements. The legal challenge would also affect other polluting industries like coal waste sites, metal finishers and wood treatment facilities.

“The worst offenders declare bankruptcy, opting to clear their plate of financial obligations and skip town,” said Earthjustice attorney Lisa Evans. “Residents are left with poisoned soil and water; taxpayers are stuck with a hefty cleanup bill.”

The Environmental Protection Agency (EPA) ranks the mining industry as the nation's top toxic polluter, reporting more toxic releases annually than any other industry. The industry generates more than 2 billion pounds of toxic waste each year, and has polluted more than 40 percent of western watershed headwaters. But current regulations make it easy for mine operators to walk away from sites contaminated with cyanide, lead, arsenic, mercury and other toxins used and unearthed in the mining process.

In 2004, the EPA reported that 63 hardrock mining sites were listed as Superfund sites, with an estimated cleanup cost of \$7.8 billion. Of that, \$2.4 billion was expected to come from taxpayers. Another 93 mining sites were being eyed for inclusion on the Superfund list.

One of those Superfund sites is the Molycorp/Chevron Mining molybdenum mine near Questa, New Mexico. The Taos-based organization Amigos Bravos has long called for Molycorp to take responsibility for the toxins it released during the mine's 40-year history, contaminating the Red River and nearby groundwater aquifers. In 2002, after much of the damage was already done, the company agreed to set aside \$152 million for cleanup. But total cleanup costs could reach \$400 million and observers wonder if the scale of destruction would have been less if Molycorp knew at the outset it would be held responsible.

"If companies aren't on the line to clean up after themselves, there's no incentive for them to improve their waste management practices," said Brian Shields, executive director of Amigos Bravos. "We hope this legal action will encourage mine operators to act more responsibly."

Perhaps the most far-reaching example of irresponsible mining operations is Asarco, which declared bankruptcy in 2005. The century-old mining and smelting company left behind 94 Superfund sites in 21 states, with a total cleanup cost estimated at more than \$1 billion, far more than the \$62 million trust the company set aside for cleanup.

In Idaho, Asarco is among mining companies responsible for contamination spread across the 1,500-square-mile Coeur d'Alene River basin. Cleanup work is likely to last for generations. EPA has estimated the cost of the first 30 years at \$359 million.

The Idaho Conservation League is also watching prospective cleanup costs mount from 17 contaminated sites caused by phosphate mining.

"We all learned in kindergarten to clean up after ourselves, but some mining companies still haven't learned this lesson," said John Robison, Public Lands Director of Idaho Conservation League. "Both phosphate and hardrock mines have contaminated Idaho streams with toxic mine waste and left taxpayers footing the bill. Properly bonding mining operations will help keep mine waste from polluting our streams and rivers."

In Nevada, 27 mining companies had declared bankruptcy as of July 2000, creating some of the country's highest potential taxpayer liability.

"We're still grappling with the legacy of bankruptcies from the 1990s," said Dan Randolph, executive director of Great Basin Mine Watch. "Given the frantic pace of mining today, if we had another rash of bankruptcies, the cleanup costs would be massive, not to mention the scale of environmental devastation."

Environmental damage is not limited to hardrock and phosphate mining. In Illinois, communities face potential water contamination from industrial waste dumped in surface coal mines.

"Peabody Coal plans to dump 60 million tons of coal combustion waste in a coal mine near farms and homes," said Kathy Andria, Waste & Recycling chair of the Illinois chapter of Sierra Club. "It is critical that the money be available for cleanup if this toxic waste pollutes our water. Current coal mining bonds are inadequate to pay for cleanup."

The lawsuit aims to close a gap between two federal laws governing hazardous waste cleanup: the Superfund law and the Resource Conservation and Recovery Act (RCRA). When the Superfund law was passed in 1980, lawmakers gave EPA five years to put financial assurance regulations in place. More than 20 years later, EPA has done next to nothing. Although many industries that handle hazardous materials are subject to bonding requirements under RCRA, hardrock mining and other polluting industries fall through the gap between the two laws.

###