

# **EXTRACTION HANDBOOK**



***NLC MINING  
WORK GROUP***

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## Credits:

This handbook is the result of work by the Trout Unlimited National Leadership Council Mining Work Group during 2017 and 2018. Participating members of the Work Group during that time were: Kim McCarthy, Chris Jones, Dan Short, Harry Murphy, Chris Schustrom, Linn Beck, Bill Heart, and Henry Koltz.

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# Introduction:

Discussions at the 2016 Annual Meeting led to the decision to continue to list mining on Trout Unlimited's list of conservation priorities. Along with the decision to keep mining on the priority list came the decision that a Mining Work Group would need to be reactivated. The Work Group began to meet in January 2017 and has been active since that time.

The first Work Group meeting produced the decision to rename the Work Group. The previous Work Group was referred to as the Hard Rock Mining Work Group. Members discussed the fact that the previous title limited the previous Work Group to a single form of mining that occurs primarily in the West. The feeling of the current Work Group is that several kinds of extraction activities share similar types of issues and the new Work Group should focus more broadly. The discussion led to the decision to simply call the new Work Group the Mining Work Group.

The goal of the Work Group in preparing this handbook is to provide a set of useful tools for chapters and councils that have to deal with an extraction project that could possibly have negative impacts to cold water resources. While chapters and councils would generally like to have the National organization coordinate and direct this type of engagement, the reality of Trout Unlimited is that leadership in engagement with extraction projects will generally fall to local chapters and councils.

Engaging with extraction projects is a long and difficult task. Most chapters and councils simply do not know where to begin or how to coordinate this type of engagement. It is the hope of the Work Group that the tools provided will provide chapters and councils the ability to get started, coordinate, and sustain a successful engagement.

Each extraction project will have situations unique to the area in which the project is proposed. There is no possible way for a Work Group to anticipate or have suggestions for every possible situation. So, the handbook we offer will deal with suggestions for situations that are common to most extraction situations and should be useful to any chapter or council that finds itself confronted by a potentially damaging extraction project.

# Various Types of Engagement:

It is important for Trout Unlimited to state early in this handbook that we, as an organization, are not opposed to mining. Clearly, living the lifestyle we all do requires that minerals be extracted and turned into products that allow all of us to lead a 21st century life style. So, we understand very clearly that mining is a necessary part of the current economy. But, we also realize that sometimes the wrong mine is proposed in the wrong location. In those situations Trout Unlimited will remain true to its mission and make every effort to protect threatened water resources.

We have also learned that mining companies can be important partners in our conservation work. There are numerous examples of mining companies engaging with Trout Unlimited to help restore past mining damage. There are situations in which mining companies work side by side with Trout Unlimited groups on stream restoration projects. In those cases it is entirely appropriate for Trout Unlimited groups to say thank you and give the companies a pat on the back for demonstrating a good conservation ethic.

When extraction projects are proposed for an area, Trout Unlimited can face a variety of options as to how they need to engage on a project. The first step in engagement is to develop a complete understanding about what is being proposed. Members need to attend all informational meetings and ask questions so that any potential impacts to waters are understood at the earliest stages.

After a complete understanding of a project is developed there will generally be a period of time during which public comments are accepted and considered. This is a chance for members to point out any potential problems and to suggest alternatives that should be considered. In some cases a project can be made much more attractive to Trout Unlimited with just a few slight changes. There have been cases in which slight changes in design or operation have satisfied Trout Unlimited to the point that projects became acceptable.

So, as extraction projects arise around the country, there will be a wide array of situations. Projects will vary from some that are of little or no concern to Trout Unlimited, to some that can be made acceptable with changes, to those that are simply the wrong mine in the wrong place. It is this category of the wrong mine in the wrong place that will require concentrated efforts on the part of chapters or councils to protect the resource. The handbook sections that follow are designed to assist chapters or councils needing to oppose a project that simply cannot be made acceptable from a resource standpoint.

# Opposition to Extraction Projects

## Part 1: The Early Stages:

So, your chapter or council and your community just received information informing you that a company is requesting exploratory permits which could lead to some kind of extraction activity that may very well have the potential to damage your local cold water resources. Everyone in the chapter or council (well, maybe not everyone) is upset and wondering what can be done to stop the threat. Now, the tough question: **WHAT CAN WE DO?** You will need to identify and encourage as many people as possible to be willing to take actions.

The following pages of this handbook are meant to help provide answers to the question asked above. It is unfortunate that there have been many chapters and councils before that have been in a similar situation. But, that allows us to gather information and strategies and present them for your consideration. Instead of having to start with no advance knowledge, this handbook should give you a set of ideas about what others in your situation have done.

As stated earlier in the introduction, opposing an extraction project can be a long and arduous task. Hopefully the ideas and strategies presented here will make your task a bit less difficult.



# Become Very Familiar with the Mining Laws in Your State

Whenever chapters and councils prepare to become engaged with an extraction project it is necessary for the chapter or council to be knowledgeable about the laws governing that type of project. Whether the current laws are adequate or not they provide a framework around which decisions about the project will be made. To understand the process, a chapter or council must have a basic understanding of the laws. Laws and permitting processes vary from state to state, so some research will be needed. A good place to start researching the laws in your state are the websites of your home state Department of Natural Resources or your Department of Game and Fish.

It is not practical for the handbook to try and list all of the web sites holding the information for all of the states. Instead, we are going to provide a link that will allow chapters and councils to access the laws for any state. That link is:

**<https://Arlweb.msha.gov/support-resources/state-mining-agencies.asp>**

Knowing precisely what the company will need to do and how the state will need to respond should give you an idea about the timeline you will be dealing with. Knowing an approximate timeline will allow you to plan strategies and activities along that timeline.



## **Obtaining Support from the National Organization:**

As stated herein, Trout Unlimited is not opposed to all mines. Likewise, Trout Unlimited does not support all mines. Instead, Trout Unlimited works at many levels with mining concerns and as part of governmental review processes to ensure that mining is permitted and accomplished in a responsible manner which does not harm cold water resources.

Trout Unlimited is opposed to, and will not support, improperly sited mines in sensitive locations of special significance to cold water fisheries.

Most advocacy concerning proposed mines occurs at the local chapter and council levels. As part of that advocacy, there may be circumstances in which a chapter or council is allowed to assert that the whole of the national body of Trout Unlimited opposes or supports a proposed mine. Before making such an assertion, however, a chapter or council must seek and receive approval from Trout Unlimited national office.

Such requests should be made to Trout Unlimited's Governmental Affairs unit in Washington, DC. Because each proposed mine involves unique circumstances and facts, requests will be handled on a case by case basis. In order to aid the Governmental Affairs unit in its decision making process, chapters or councils seeking the imprimatur of the national office should be prepared to provide information including:

- The location of the proposed mine;
- Its potential negative or positive impacts upon cold water resources;
- The identity of the proposed mine's operator;
- The identity of chapters and councils opposed to the proposed mine;
- The identity of partner organizations opposed to the proposed mining operation;
- The permitting process which applies to the proposed operation, and the status of the permit within that process;
- Any other applicable important information which will aid in the decision making process

***Absent approval from Trout Unlimited's national office, chapters and councils should speak only on their own behalves.***

This process is designed to ensure that Trout Unlimited acts rationally and is able to protect its interests while acting in a manner consistent with its mission and vision to protect cold water resources.

## **Part 2: Prepare Your Strategy:**

Begin this stage at about the time permit applications are about to become a reality. There will certainly be overlap between this stage and the previous stage, but **IT IS IMPORTANT TO TRY TO NOT ALWAYS PLAY FROM BEHIND**. It is difficult for volunteers to try and stay ahead of a paid corporate staff, but keeping the company surprised and not playing catch up are important.

At this stage there is a definite possibility that the project will become a reality. If all permits are awarded it may very well happen.

- 1. Be ready to testify at all public hearings.** Also, show up at any company sponsored meetings prepared to ask questions that the company would rather not address. Try to keep them off balance.
- 2. Plan workshops and events to spread information to the public.** Hold some of the events near the project site to highlight what could be lost.
- 3. Make some money.** This should start as quickly as possible. It is important. Your fund raisers should educate the public in addition to making money. Make the fund raising events fun as well as informative. Have music and try to get non activists to attend. Have auctions and raffles. Encourage donations. Start thinking about using the money for an advertising campaign.
- 4. Make sure you are up to speed on all laws governing the type of extraction you are opposing.** Call out the company, very publicly, if there are possibilities of violations.
- 5. Along with partner organizations organize many talking sessions.**
- 6. If you have not done so already, look into setting up a separate nonprofit organization.** Be sure to discuss this



with National staff to decide if you will designate the new organization as a 501 C3 or a 501 C4 organization. There are important differences between the two in terms of lobbying, being able to support candidates, and whether contributions are tax deductible.

7. **Secure experts who are willing to testify about the problems that will be created by the planned project.** The company will have plenty of “experts.” You will need to counter them. The people you recruit may expect to be compensated or have expenses covered. This will be another use for the money you raise.
8. **Advertise!** Rent billboards and use local media. Make sure the local population is made aware of serious problems associated with the project. Include contact information in all of your advertising. Get as much free press as you can.
9. **Bring people to the project site.** Set up tours. Bring politicians, journalists, and anyone who could possibly be a partner.
10. **The process will be long. Keep the pressure on.** Have an event at least monthly. Walks, bike tours, camp fires, whatever you can think of. Don't let the issue go quiet.
11. **Always keep open the option for legal challenges.** Obviously this can be expensive, so fund raising is critical as is looking for free or reduced fee legal help from partners who are on your side of the issue. There may also be legal help available to you from groups that specialize in environmental issues. PLEASE KEEP IN MIND that National Trout Unlimited has policies involving any litigation. Be sure to check about the policies and conform with those policies in the event you consider any legal action.

# **Another Option; The Citizen's Ballot Initiative:**

Another potential tool for chapters or councils to employ if opposition is needed against an extraction project is the citizen's ballot initiative. The ballot initiative is a major undertaking, and is only allowed in about half of the states, but it can be a successful way to stop poor projects that pose serious threats to the water resources of a state.

The ballot initiative is a process that bypasses the state legislature and allows citizens to put a referendum directly on a statewide ballot. It is not simple, and is usually expensive, but it can be very effective in cases where it is allowed and where citizen's desires are being ignored by state legislatures. The Mining Work Group feels it is an important enough option that it deserves a section in this handbook.

What follows are the steps that generally would need to be followed to use the citizen's ballot initiative.

1. The first step is to find out if your state allows citizen ballot initiatives. For example: Montana does allow them while Wisconsin does not. Roughly half of the states permit ballot initiatives.
2. Before starting your efforts to have an issue placed on a ballot by using the citizen's ballot initiative it is critical for your chapter or council to make contact with National Trout Unlimited's Governmental Affairs staff. Because of Trout Unlimited's 501 C3 tax designations there are a number of lobbying, fund raising, tax, and expenditure issues that you will need to be aware of. National staff will be able to help you navigate properly in what can be a complicated situation.
3. Create your core ballot initiative team by seeking out like-minded partner organizations with similar goals that will actively participate and contribute to a successful ballot initiative campaign.
4. Have a clear goal associated with your ballot initiative effort. For example; to stop perpetual mine pollution of your state's waters resulting from hard rock mining in your state.

5. Understand the financial costs associated with pursuing a ballot initiative from the start of the formal project to the vote and beyond.
6. Make certain that you and your core team are well versed in all requirements and timelines associated with the process. Plan well ahead in order to provide time for any delays that might occur during the formal ballot initiative process.
7. With legal assistance, draft ballot initiative language that will achieve the desired goal and be easy for voters to understand.
8. Undertake polling of voters in your state to determine the level of voter support for such a ballot initiative before beginning the formal process. This can be accomplished by working with a professional polling company. Your decision to move forward or not will be influenced by voter's appetite for what you are proposing in your ballot initiative.
9. Based on your polling results, make the decision of whether to move forward with the ballot initiative effort. If you decide to move forward, work with your core team to make a detailed plan for the ballot initiative process from start to finish. A few examples of parts to include in this plan are a fund raising plan, an outreach plan for engaging your grassroots and chapters in this process, a signature gathering plan, and a media outreach plan. Obtaining a certain number of signatures on petitions is always a part of having a ballot initiative placed on a ballot and will be one of the critical areas that has to be successful.

A ballot initiative is always a large project. To be successful you need partners, adequate volunteers to spread out the workload, adequate funding, and willingness to persist in an effort that will take many months to complete.



***Thompson Creek Mine***

# Seeking Professional Support:

From time to time, mining issues may require advocacy campaigns which outstrip the abilities of chapters and councils. In such circumstances, it may be necessary to find allies, join coalitions, and ultimately to retain paid staff/lobbyists to fully engage issues.

Retaining staff and/or lobbyists involves numerous concerns, such as employment law related issues, insurance issues, and ethical/tax status related issues. As such, chapters and councils which seek to retain staff and/or lobbyists are required to interact with TU's national office and its Volunteer Operations Staff before and as part of that process.

Trout Unlimited offers the following guidance with regard to engaging with advocacy operations:

## **Supporting Advocacy with Partnerships, Staff or Contractors**

While many of TU's grassroots efforts benefit from the local knowledge and perspectives of our volunteers, there are some issues and activities where it may be helpful to have the support of an expert in the field to guide and advise the actions taken. In the case of advocacy efforts on the local and state level, many of the legislative issues and tactics could benefit greatly from the support of a paid professional.

There are, however, risks that come with hiring out advocacy work, including risks of the perception of the grassroots, volunteer-led nature of our local work, and very real risks to our organization's nonprofit standing. Before embarking on any advocacy efforts, be sure to read the TU Volunteer Leadership Manual – especially Chapter 10, Section 2 on “lobbying” – and contact your Volunteer Operations Staff to talk through your advocacy goals and needs. TU's staff is here to help and in many cases may be able to point you towards a local or regional staff member or partner to help you in your efforts.

When facing an issue or piece of legislation that clearly requires intensive advocacy effort, it may seem that the easiest and best course of action is to simply hire a professional lobbyist or a paid staff member to handle the work and coordinate the grassroots messaging and volunteer activity. However, there are many other options a chapter or council should explore before heading down this road, including:

1. Reaching out to your State Council Chair and National Leadership Representative to find out if the state or another local chapter has previously gone through a similar effort and has communications, research, and a plan that your chapter can take and repurpose for your specific campaign.
2. Contacting TU's Volunteer Operations Staff to discuss the issue and identify local – and potentially free – support. TU's reach is broad and deep and there may very well be resources available from the region – or from a similar campaign in another part of the country – which could be used to help prevent the reinvention of the wheel and fast-track your own chapter or council efforts.
3. Looking to the partners in the region who are already active in advocacy to engage them and benefit from their efforts. Many times in an advocacy effort, groups such as land trusts, watershed associations, Audubon chapters, or other professionally staffed organizations are already engaged on the issue and would be more than happy to share their game plan with aligned organizations such as a TU chapter or council. In one recent example, a state council in the Northeast was looking for help to advocate for new statewide streamflow regulations and was able to “borrow” the member messages and legislative testimony of their partner – The Nature Conservancy – and then simply re-write those communications using TU's unique mission and focus. In this way, that council put forward very professional advocacy pieces that required minimal work to re-craft to represent TU's position on the issue.

If, after working to find other sources of support and guidance, your chapter or council believes the only way forward is to engage a paid lobbying contractor – or hire a staff position to run the advocacy campaign – your chapter must reach out to the Volunteer Operations Staff to seek specific guidance on the rules surrounding lobbying activity, approval of the job description and workplan developed and other checklists to ensure such an effort does not jeopardize TU's nonprofit standing.

Because each engagement of a staff member or lobbyist regarding a mine will have different dynamics, there is no formulaic “check list” regarding such retentions. Rather, the retention process will be shaped by the dynamics of the issue, the parties involved, the various venues in which the advocacy work will be performed, and the funding available.

As a result, and to reiterate, contact must be made with TU Volunteer Operations Staff concerning all potential hires before they occur. Job descriptions, performance plans, and 501 c3 checklists will likely be required.

# Using National Staff as References:

An additional resource possibility for chapters and councils can be found within the Trout Unlimited organization. Many of our members do not realize how heavily Trout Unlimited is already engaged with mining. TU employs approximately a dozen full time staff who work to correct past mining damage as well as to prevent future damage. These staff members have a tremendous amount of knowledge about mining and could possibly be valuable sources of information for chapters and councils with questions about extraction projects. To locate Trout Unlimited Mining Staff contact Trout Unlimited at 1-800-834-2419. They will be able to provide you with contact information.



*Runoff from mine tailings*

# Successful Outcomes Are Possible:

Not all mining threats turn out as doom and gloom situations. In 2011 a mining company came to the Penokee Hills in Northern Wisconsin. Their goal was to build a 22 mile long iron ore mine that would have been a half mile deep and 300-400 feet wide. The company spent millions to gain control in the Wisconsin legislature and change some of Wisconsin's conservation and mining laws. The proposed mine would have had very damaging consequences for many miles of classic brook trout streams.

But, a small group of individuals partnering with four Lake Superior Chippewa Tribes along with many local and state conservation groups spent over four years making sure that the company was not going to destroy the Penokee Hills. The group had no idea what they were doing at the start and just developed their strategy as they moved along. It took countless hours of meetings and fundraisers, but the most important part of the work was simply letting the public know what was at risk and what the consequences would be. Many tours to the site were given to educate countless numbers of people including a number of elected officials.

The opposition mounted and one day in February, 2015 the company closed their doors and announced that they were abandoning the project.

It's not often that a win like this is secured, but it can be done. Many of the strategies suggested in this handbook were developed during the opposition to the Penokee Hills iron ore mine. Those strategies plus countless hours of diligent work by many volunteers saved one of Wisconsin's most beautiful areas from major damage.

