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Office of the Attorney General

November 15, 2023

The Honorable Tom Carper
United States Senate
513 Hart Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
United States Senate
170 Russell Senate Office Building
Washington, DC 20510

**RE: Good Samaritan Remediation of Abandoned Hardrock Mines Act
of 2023**

Dear Senators Carper and Capito:

I write to you in support of S.2781, the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023 (the "Bill") introduced and referred to the Senate Environment and Public Works Committee on September 13, 2023.

More than 500,000 abandoned hardrock mines dot the American West, leaving behind countless waste piles and tunnels generating acidic discharges with high concentrations of harmful metals. The U.S. Environmental Protection Agency estimates abandoned hardrock mines affect forty percent of headwaters in the western United States. In Colorado, the Department of Public Health and Environment Water Quality Control Division estimates abandoned mines pollute over 1,600 miles of rivers. Of the 230 mine tunnels identified by the Department of Natural Resources Division of Reclamation, Mining and Safety as major sources of acid mine drainage, only 20 percent have active water treatment systems.

While modern day mining regulations mitigate environmental harm through mandated reclamation measures, no current laws effectively address the large-scale pollution from abandoned mines. S.2781 promotes voluntary clean-ups at these mines by "Good Samaritan" entities—entities that are not culpable for, nor hold legal responsibility for, the ongoing pollution.

The current legal framework deters would-be Good Samaritans from conducting clean-ups at abandoned mine sites. In particular, the federal Clean Water Act applies stringent regulatory standards through a prescriptive permitting process for any project seeking to improve water quality from a discrete source such as a mine portal. Good Samaritan projects have limited budgets and lack the resources needed to meet these requirements. Even a good faith attempt to improve water quality that does not meet these stringent standards can lead to liability for those attempting to remediate pollutants.

S.2781 creates a new federal permitting program based on site-specific and achievable performance standards for Good Samaritan projects. If Good Samaritan entities comply with their permits, they are shielded from Clean Water Act liability, as well as liability under the Comprehensive Environmental Response, Compensation, and Liability Act (also known as

Letter to the Honorable Tom Carper and Shelley Moore Capito

November 15, 2023

Page 2

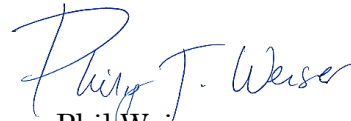
“Superfund”). This approach allows for incremental water quality improvements at abandoned mine sites while limiting the Good Samaritan’s liability so long as improved environmental conditions are maintained over time.

Previous bills over the past 25 years have all failed to find balance between incentivizing would-be cleanup proponents while protecting against further environmental harm. This Bill strikes that balance, and has gained broad support from the mining industry, state and local governments, sportsman groups, and conservation organizations.

I respectfully urge you to support the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023. Your support for this Bill provides a critical step towards helping Colorado and other western states address the long-standing problem of water pollution from abandoned mines.

Should you have questions, please feel free to contact me or Brea Hinricks at brea.hinricks@coag.gov. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Phil J. Weiser". The signature is written in a cursive style with a large initial "P".

Phil Weiser
Attorney General