



COLORADO

**Department of
Natural Resources**

January 9, 2024

The Honorable Thomas R. Carper
Chairman
U.S. Senate Committee on Environment and
Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Shelley Moore Capito
Ranking Member
U.S. Senate Committee on Environment and
Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

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

Dear Chairman Carper, Ranking Member Capito, and Members of the U.S. Senate Committee on Environment and Public Works,

The Colorado Department of Natural Resources, encourages you to support S. 2781 titled 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 state’s Water Quality Control Division estimates abandoned mines pollute over 1600 miles of rivers. Of the 230 mine tunnels identified by the state’s Division of Reclamation, Mining and Safety as major sources of acid mine drainage, only 20% 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. This legislation promotes voluntary cleanups at these mines by “Good Samaritan” entities having no legal responsibility for the on-going pollution.

A 2016 Senate Joint Memorial by the Colorado Legislature following the Gold King Mine spill highlighted the significant need for Good Samaritan legislation to facilitate remediation of abandoned hard rock mines by nonprofit organizations, corporate entities and communities with expertise in mine reclamation. The current legal framework deters these would-be Good Samaritans from conducting cleanups 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 the Good Samaritan.

This Bill creates a new federal permitting program based on site-specific and achievable performance standards for Good Samaritan projects. If Good Samaritan entities comply with the permit, they are shielded from liability. This approach allows for incremental water quality

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improvements at abandoned mine sites while limiting the Good Samaritan's liability so long as improved environmental conditions are maintained over time. Initially, the permitting process will be a pilot program limited to issuing 15 Good Samaritan permits, with a 7 year sunset provision requiring congressional re-authorization to continue.

Previous bills over the past 25 years have attempted to strike a balance between incentivizing would-be cleanup proponents while protecting against further environmental harm, but have not garnered sufficient support to move forward. This Bill strikes that balance, and has gained broad support from the mining industry, state and local governments, sportsman groups, and conservation organizations.

The Colorado Department of Natural Resources respectfully urges 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.

Sincerely,



Dan Gibbs

Executive Director of Colorado Department of Natural Resources

cc: Senator Benjamin L. Cardin
Senator Bernard Sanders
Senator Sheldon Whitehouse
Senator Jeff Merkley
Senator Edward Markey
Senator Debbie Stabenow
Senator Mark Kelly
Senator Alex Padilla
Senator John Fetterman
Senator Kevin Cramer
Senator Cynthia Lummis
Senator Markwayne Mullin
Senator Pete Ricketts
Senator John Boozman
Senator Roger F. Wicker
Senator Dan Sullivan
Senator Lindsay Graham