



January 10<sup>th</sup>, 2024

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

RE: Support for Senate Bill S.2781 *The Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023*

Dear Chairman Carper and Ranking Member Capito:

The National Association of Abandoned Mine Land Programs (NAAML P) supports the introduction of Senate Bill S.2781 *The Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023*. Historical mineral extraction unquestionably contributed significantly to the prosperity of our nation; however, our legacy mining inheritance also includes thousands of hazards to people and wildlife from legacy contaminants like mercury, arsenic, and acid mine drainage that pollute our water\*<sup>1</sup> and dangerous mine openings that pose physical dangers to people and wildlife nationwide.

Modern hardrock mining is fundamental to the domestic supply of critical minerals and plays a vital role in the economy of many rural regions across the Nation. Today's mining is highly regulated and well-bonded, as outlined in the recent Biden-Harris Administration's Interagency Working Group on Mining

Laws, Regulations, and Permitting\*<sup>2</sup>. Legacy Abandoned Mine Lands (AML) hazards are found across the nation but hardrock AML hazards are particularly numerous in the western states, with a known 633,181 historic hardrock mining-related features dotting the Nation\*<sup>3</sup>. There are typically no responsible parties left to be held accountable for these historic sites, but the state agencies that are charged with cleaning them up, and community and environmental groups with no connection to the sites that would like to help, known as “Good Samaritans”, are not able to do so because of liability concerns. Current law holds states and Good Samaritan groups liable for full costs of cleaning up remaining pollution if they do a project at these sites, even if they had no hand in creating the pollution, their work makes the site better, and cleaning up the site entirely is impractical or impossible.

A March 31, 2023, letter from Senator Martin Heinrich\*<sup>4</sup> and others to the Senate Committee on Appropriations estimated it will take \$54 billion to clean up these sites in the United States. It could take nearly two centuries to fully address hardrock AML at the current funding rate. The Infrastructure Investment and Jobs Act (IIJA) authorized a national hardrock AML program (Sec. 40704) that would provide funding for AMD water treatment, but very little has been appropriated so far. With such limited funding, it would be very helpful to unlock the resources available from Good Samaritan groups that are currently sidelined by liability concerns. Even if a full-scale hardrock AML program is eventually funded, state agencies will be unable to use that funding to address AMD water pollution unless adequate Good Samaritan liability protections are put into place.

The currently available methods to facilitate Good Samaritan projects, for example EPA’s CERCLA Administrative Orders on Consent (AOC) tool, are not enough to provide states or Good Samaritan groups adequate protection from liability for AMD water treatment projects. EPA’s AOC tool can provide assurance that the EPA will not seek to impose liability on the state or Good Samaritan group for well-conducted projects, but they cannot provide the same assurance that a third-party group will not bring a lawsuit against the state or Good Samaritan group resulting in major, perpetual liability. State agencies and Good Samaritan groups need and deserve the stronger liability protection provided by S. 2781.

S.2781 is a comprehensive proposal that meets many of the challenging requirements faced by would-be AML Good Samaritans. The Bill would establish a new pilot program administered by the EPA to permit up to 15 Good Samaritan abandoned mine cleanups. The bill requires remediation projects to pose a low risk to the environment and produce improvements in environmental conditions, while also stipulating requirements for public involvement and environmental review. If a permit is approved, qualified Good Samaritans would be provided with conditional liability relief, which will allow them to move forward with projects addressing harmful abandoned mine waste. These projects will complement the limited federal and state resources and demonstrate the benefits and expertise that Good Samaritans bring to the table.

The program to be established by this bill is a significant step in the right direction on an issue that has been delayed by disagreements over details in Congress for many years. The hope is that once the success of this program has been demonstrated, it could be made permanent and expanded as appropriate. NAAMLPLP needs a program like this to allow state agencies to do the water treatment work it is meant to do and to make the most of the funding and assistance available to do it.

With the enormous hardrock AML task at hand, we respectfully urge the Committee's favorable consideration of S. 2781 to provide the needed liability protection for Good Samaritans who are willing to improve the environment for all to benefit. Thank you for your consideration.

Sincerely,



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\*1 <https://www.usgs.gov/special-topics/water-science-school/science/mining-and-water-quality>

\*2 Biden-Harris Administration's Interagency Working Group on Mining Laws, Regulations, and Permitting, September 2023, Final Report, *Recommendations to Improve Mining on Public Lands*, Department of the Interior. Washington, DC

\*3 Jeffrey L. Mauk, et al, 2023, *Building an inventory of abandoned mine features in the United States: Partnerships among the U.S. Geological Survey's USMIN project, and state, federal, and tribal agencies*: U.S. Geological Survey, Geology, Geophysics, and Geochemistry Science Center, P.O. Box 25046, MS 973, Denver, CO 80225 USA

\*4 <https://www.warnock.senate.gov/wp-content/uploads/2023/05/FOTO-Program-letter.pdf>

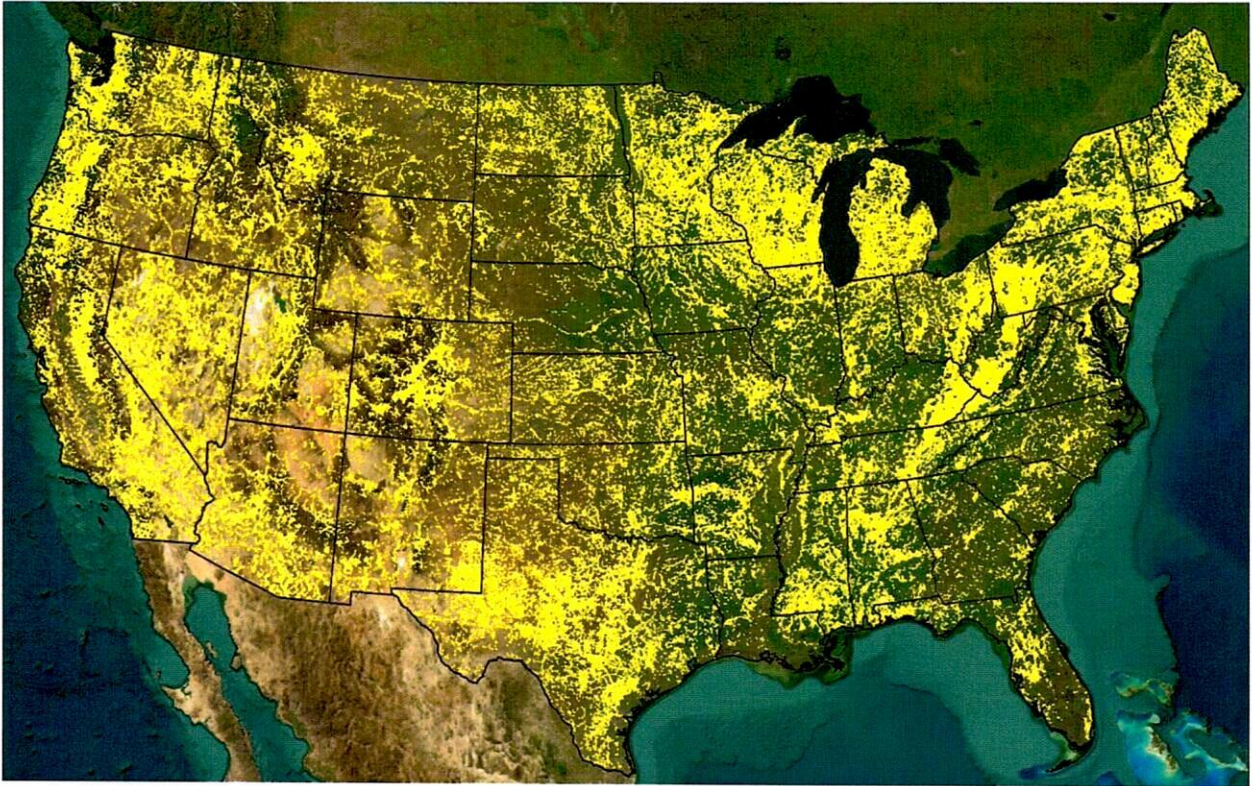


Image of the 719,121 mining related features form the USGS USMIN Database