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Office of the Governor

January 10, 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 S 2781, *The Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023*

Dear Chairman Carper and Ranking Member Capito:

We write to share the State of Nevada's support for The Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023 (S. 2781).

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 Nevada and the nation. Today's mining is highly regulated and well-bonded, while historic mining was unregulated and often left behind physically and environmentally hazardous sites. Legacy Abandoned Mine Lands (AML) hazards are found across the nation, but hardrock AML hazards are particularly numerous in the western states with an estimated 300,000 historic mining-related features dotting Nevada's landscape alone. Starting in the 1980s, federal and state regulations were enacted requiring new mines on federal land to be bonded to assure their complete reclamation, but remediation of hardrock AML hazards never received the necessary funding and support.

Hardrock AML reclamation is imperative to the health of Nevada communities, wildlife, and environmental quality. Inherent lack of funding and concerns about liability protections have always hindered the cleanup of hardrock AML. Multiple Good Samaritan bills have been introduced over the past 20+ years, but they have all failed to provide the necessary Good Samaritan protection allowing for remediation of AML hazards. It can also be vital in some instances for State agencies to have Good Samaritan protections to be able to complete AML projects. The additional complication of mixed land and mineral ownership and roles of multiple regulatory authorities have only added to the potential Good Samaritan AML problem.



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The currently available methods to facilitate Good Samaritan projects, for example the Environmental Protection Agency's (EPA) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Administrative Orders on Consent (AOC) tool, are not enough to provide states or Good Samaritan groups adequate protection from liability for AML water treatment projects. The 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. Nevada State agencies and Good Samaritan groups need and deserve the stronger liability protection provided by S. 2781.

Section 40704 of the Infrastructure Investment and Jobs Act (IIJA), authorizes a new, comprehensive AML program to address hardrock AML. It was conceived as a \$3 billion, ten-year program implemented through states, tribes, and the federal government. An appropriation to fund this program was left out of the IIJA. Congress appropriated \$5 million in Fiscal Years 2022 and 2023 under the Energy Communities Revitalization Program (ECRP). It is estimated that \$50 billion in funding will be required to remediate the hardrock AML issues throughout the country. Without a significant funding increase or the guarantee of funding for more than one fiscal year at a time, the new program makes it difficult for AML programs to increase their work on the ground. By providing liability protections for Good Samaritan projects, state agencies will be able to leverage IIJA 40704 funding to accomplish more remediation projects with Good Samaritan partners.

S. 2781 is comprehensive legislation 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.

AML projects, including Good Samaritan projects, will not only provide environmental and physical safety benefits but also create jobs in rural and often disadvantaged communities. The implementation of this bill will supplement the existing funding and ensure money is efficiently applied to get work done on the ground in Nevada and other western states.

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

Sincerely,



Joe Lombardo
Governor