
February 8, 2019

The Honorable John Barrasso
Chairman
Committee on Environment
and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Peter A. DeFazio
Chairman
Committee on Transportation & Infrastructure
U.S. House of Representatives
2251 Rayburn House Office Building
Washington, D.C. 20515

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

The Honorable Sam Graves
Ranking Member
Committee on Transportation & Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Barrasso, Chairman DeFazio, Ranking Member Carper, and Ranking Member Graves:

Western Governors urge you to reintroduce and expedite committee consideration of the Good Samaritan Remediation of Orphan Hardrock Mines Act (115th Congress [S. 3727](#) and [H.R. 7226](#), the 2018 Good Samaritan bills). The legacy of abandoned hardrock mines in the West is an issue that cannot be addressed without voluntary remediation by entities that have no responsibility for the cleanup – “Good Samaritans.” Good Samaritans include states, municipalities, federal agencies, volunteer citizen groups, and private parties. Liability concerns have hampered voluntary remediation efforts by such groups for too long.

In recognition of the economic, environmental, and social benefits of remediating abandoned hardrock mines, legislation to address liability for Good Samaritans has been regularly introduced in Congress since 1999 without success. The 2018 Good Samaritan bills sought to establish a pilot Good Samaritan permitting and remediation program limited to 15 projects. While Western Governors support a more comprehensive approach to these liability questions, the Governors do support the 2018 Good Samaritan bills, recognizing that a pilot program may be necessary to pave the way for future across-the-board legislation.

In WGA Policy Resolution [2018-11](#), *Cleaning up Abandoned Mines in the West*, the Governors call on Congress to legally protect Good Samaritans from liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), and the Clean Water Act (CWA). The Governors applaud the 2018 Good Samaritan bills’ protection of Good Samaritans, and other associated persons, from CERCLA and CWA liability for remediation undertaken in compliance with an approved permit, even after termination of that permit. The Governors urge Congress to consider a similar provision for RCRA liability.

The 2018 Good Samaritan bills establish the Environmental Protection Agency (EPA) as the administrator of the pilot programs. Western Governors encourage EPA and Congress to

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investigate whether states with existing regulatory programs for abandoned hardrock mines are better positioned to administer this program or a subsequent comprehensive program.

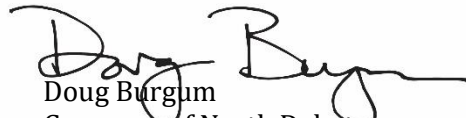
Further, the 2018 Good Samaritan bills contain extensive permitting and other procedural requirements. The pilot program is an effective vehicle to determine whether these requirements deter cleanups or are necessary to ensure that there are significant measurable environmental gains from remediation projects. The review of the pilot program and report to Congress should consider whether the structure of the program effectively achieves this balance.

The 2018 Good Samaritan bills represent a critical step to address the cleanup of abandoned hardrock mines in the West. Western Governors look forward to working with Congress to establish a pilot program that will enable the passage of future comprehensive legislation to address Good Samaritan liability.

Sincerely,



David Ige
Governor of Hawaii
Chair, WGA



Doug Burgum
Governor of North Dakota
Vice Chair, WGA

cc: The Honorable Frank Pallone, Chairman, Committee on Energy and Commerce
The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce
The Honorable Raul M. Grijalva, Chairman, Committee on Natural Resources
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources