

Abandoned Mine Land Clean-up Overview
Good Samaritan Legislative Objectives
Suggestions for the Gardner – Tipton Bill

presented by:

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Scope and Nature of the AML Problem

Types of AML Problems	Examples of Necessary Response Measures	Number and Percent of sites
Benign	<ul style="list-style-type: none"> No remediation or reclamation required 	194,500 35%
Landscape Disturbances	<ul style="list-style-type: none"> Regrading and recontouring Revegetation Disposal of discarded materials 	231,900 41%
Safety Hazards Greatest threats to people	<ul style="list-style-type: none"> Partial or complete backfilling Secure and seal underground openings Fencing, signage, and removal of unsafe structures 	115,300 21%
Environmental Problems Greatest threats to wildlife Principal Focus of Good Samaritan Legislative Proposals	<ul style="list-style-type: none"> Reroute drainages away from mine wastes Place mine wastes in engineered containment Cover/cap mine waste piles Treat water to remove contaminants Reprocess wastes to remove contaminants Plug mine openings with mine drainage 	14,950 3%

Modified after: Burden of Guilt, 1993, Mineral Policy Center

Have we Properly Prioritized AML Initiatives?

- Good Sam legislative proposals focus on environmental cleanup and largely ignore safety issues
- Good Sam cleanup of environmental conditions at AML sites requires Clean Water Act and CERCLA (Superfund) liability relief
 - Legislative attempts to develop workable liability relief unsuccessful so far
- Some sites with environmental problems may not require complex liability relief – especially sites in arid settings with few water issues
 - Dust abatement, erosion and sedimentation controls, rerouting drainages
 - Passive water treatment systems using settling ponds and wetlands

Would focusing on sites with safety hazards or simpler environmental problems help forge a path forward for future cleanups of sites with more challenging environmental problems?

Why Good Sams Require CWA and CERCLA Liability Relief

- Clean Water Act (CWA) water quality standards may be unattainable at AML cleanups
 - Some AML-impacted waters may never meet CWA standards despite active water treatment and extensive remediation measures
 - Creates regulatory compliance issues for discharges that can't meet standards
- Environmental benefits possible without meeting CWA standards
 - Cleanups that improve water quality must not be held to strict CWA standards
- CERCLA creates liability exposure for Good Sams who may be deemed PRPs responsible for a future CERCLA cleanup action

**Good Samaritan Legislation is Needed to Alleviate Concerns
about CWA and CERCLA Liability**

Key Objectives for Good Sam Legislation

- Facilitate environmental improvement and safety hazards abatement
- Provide CWA and CERCLA liability protection for sites with surface water or groundwater contamination
- Develop straightforward and efficient AML project permitting process
 - Minimize protracted and complex regulatory review processes
- Allow a broad array of stakeholders to qualify as Good Sams
 - Public and private-sector participants (including mining companies) with no previous site involvement
- Create AML site investigation permits with liability protection
 - Data collection to characterize environmental conditions, determine feasibility of AML cleanup, and develop a remediation workplan
 - Site investigation should not create a cleanup obligation

Key Objectives for Good Sam Legislation

- Do not let pursuit of the perfect be the enemy of the good
 - Accept and encourage partial site cleanups that improve the environment
 - Incremental environmental gains preferable to maintaining the *status quo*
- Public- and private-sector Good Sams must not be subject to strict regulatory cleanup levels applicable to site operators and PRPs
- Cleanup plans must reflect site conditions - there are no site remediation blueprints
 - Determine environmental improvement objectives on a site-specific basis
 - Authorize a wide range of activities to improve sites
- Encourage constructive public involvement and collaboration

Evaluate Feasibility of Using Existing Regulations to Advance Good Sam Work

- Some environmental problems have straightforward remediation and may not need complex liability relief
 - Sites where passive water treatment could improve water quality
 - Sites with dust hazards that could be remediated with covers or caps
 - Sites where rerouting drainages or covering/relocating wastes could reduce erosion
- Environmental problems in arid settings typically easier to address than sites with water issues and may not require comprehensive liability relief
 - Limited or no Acid Mine Drainage (AMD)
- Identify the regulatory barriers that currently thwart safety hazards abatement or environmental remediation of less complex sites

**Is Good Sam legislation needed for all sites?
Could agencies use existing or modified regulations to authorize
some Good Sam AML Cleanups?**

Suggestions for Gardner-Tipton Good Sam Bill

- Simplify bureaucratic permitting process to attract more Good Sams
 - Last session's bill too complex to facilitate participation of local communities, stakeholder groups, and public-private partnerships
 - Written with a Colorado focus for sites with AMD water contamination issues
 - Create a more streamlined process for simpler sites with limited water issues
- Increase the number of allowable pilot projects
 - 15 for each western hardrock mining state rather than 15 total
- Lengthen the primary term of the pilot project program to 10 - 15 years
 - Require progress reports to Congress and Governors every 5 years
 - Authorize Congress to extend, expand, or terminate the pilot project program
- Evaluate whether a financial assurance requirement is realistic for some public entities and nonprofit Good Sams
 - Identify some project types that may not require financial assurance
 - Potentially substitute construction-style performance bonds

A Strong Domestic Mining Industry Can Play an Important Role in AML Cleanups

- Mining companies have technical expertise applicable to AMLs
 - Demonstrated success in developing and implementing effective mine closures and reclamation
- Mining industry participation in addition to other Good Sams will enhance and expand AML cleanup efforts
- Proposed changes to the Mining Law that discourage mining will compromise and diminish an AML cleanup program

Chairman Grijalva's Mining Law Bill (to be introduced in May) will Reduce the Mining Industry's Ability to Participate in AML Cleanups