



SENATE JOINT MEMORIAL 16-001

BY SENATOR(S) Roberts, Aguilar, Baumgardner, Cooke, Crowder, Donovan, Garcia, Grantham, Guzman, Heath, Hill, Hodge, Holbert, Jahn, Johnston, Jones, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Scheffel, Scott, Sonnenberg, Steadman, Tate, Todd, Ulibarri, Woods, Cadman;

also REPRESENTATIVE(S) Coram and Mitsch Bush, Arndt, Becker J., Becker K., Brown, Buck, Buckner, Carver, Conti, Court, Danielson, DelGrosso, Dore, Duran, Esgar, Everett, Fields, Foote, Garnett, Ginal, Hamner, Humphrey, Joshi, Kagan, Klingenschmitt, Kraft-Tharp, Landgraf, Lawrence, Lebsock, Lee, Leonard, Lontine, Lundeen, McCann, Melton, Moreno, Navarro, Neville P., Nordberg, Pabon, Pettersen, Primavera, Priola, Rankin, Ransom, Rosenthal, Ryden, Saine, Salazar, Sias, Singer, Thurlow, Tyler, Van Winkle, Vigil, Willett, Williams, Wilson, Windholz, Winter, Wist, Young, Hullinghorst.

CONCERNING PROTECTION FROM LIABILITY FOR VOLUNTARY RECLAMATION OF ABANDONED HARD ROCK MINES.

WHEREAS, Mining began in Colorado in the mid-1800s; and

WHEREAS, Mining was the most significant industry in Colorado in the nineteenth and early twentieth centuries and it remains an important industry today, currently accounting for more than 57,000 jobs in Colorado and nearly \$7 billion of Colorado's annual gross domestic product; and

WHEREAS, Until the 1977 enactment of the "Colorado Mined Land Reclamation Act", article 32 of title 34 of the Colorado Revised Statutes, neither comprehensive environmental standards for mining nor reclamation of previously mined lands were required by state law; and

WHEREAS, Modern mines in Colorado have won state and national acclaim for outstanding reclamation and safety practices; and

WHEREAS, Despite the stringent environmental regulations now in place for modern mines, abandoned hard rock mines that were closed before the regulations took effect and without the benefit of reclamation (abandoned hard rock mines) continue to threaten the public health, safety, and environment of Colorado; and

WHEREAS, Acid mine drainage from the abandoned hard rock mines threatens to pollute nearby streams with heavy metals such as cadmium, manganese, aluminum, and zinc; and

WHEREAS, According to the U.S. Environmental Protection Agency, it would cost \$35 billion or more to remediate the half-million abandoned hard rock mines in the United States; and

WHEREAS, The Colorado Division of Reclamation, Mining and Safety (DRMS) estimates that there are more than 22,000 abandoned hard rock mines across Colorado and that at least 500 of them are polluting streams; and

WHEREAS, The Gold King Mine spill on August 5, 2015, discharged 3 million gallons of acid mine drainage from the abandoned Gold King Mine near Silverton, Colorado, into the Animas River. The contaminants turned the river a mustard yellow color and required the river to be temporarily closed for recreation, fishing, irrigation, and drinking water purposes; and

WHEREAS, As of August 11, 2015, the Gold King Mine continued to spill 500 to 770 gallons of waste water per minute; and

WHEREAS, While the DRMS has already made more than 6,000 abandoned hard rock mines safe in Colorado according to its web site, the Gold King Mine spill is sobering evidence that much more work needs to be done to remediate abandoned hard rock mines; and

WHEREAS, Various nonprofit organizations, corporate entities, and communities with expertise in mine reclamation have expressed interest in helping to remediate abandoned hard rock mines; and

WHEREAS, These Good Samaritan groups are discouraged from

remediating abandoned hard rock mines because of the threat of liability under the "Clean Water Act" (CWA) and the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (CERCLA) for such third-party reclamation efforts; and

WHEREAS, While Good Samaritan legislation provides an important opportunity for third-party reclamation efforts, it should not excuse from liability those entities that, under existing environmental regulations, bear responsibility for remediation of historic mines; and

WHEREAS, Public and local watershed input is critical for any proposed plan to remediate an abandoned hard rock mine; and

WHEREAS, Good Samaritan legislation should not be considered a substitute for comprehensive reforms, including adequate federal funding, for the remediation of abandoned hard rock mines across the state and region; and

WHEREAS, Previous Congresses have introduced legislation to provide Good Samaritan liability exemptions under the CWA and CERCLA, but such legislation has not been signed into law; now, therefore,

Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the Colorado General Assembly, urge Congress to pass legislation establishing a Good Samaritan exemption from liability under the CWA and CERCLA as an important step toward preventing another disaster like the Gold King Mine spill and remediating all other draining abandoned hard rock mines in Colorado.

Be It Further Resolved, That copies of this Joint Memorial be sent to the members of Colorado's congressional delegation.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
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