

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

LLS NO. M16-0199.01 Jennifer Berman x3286

SJM16-001

SENATE SPONSORSHIP

Roberts,

HOUSE SPONSORSHIP

Coram and Mitsch Bush,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Agriculture, Livestock, & Natural Resources

SENATE JOINT MEMORIAL 16-001

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

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

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

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Final Reading
March 18, 2016

SENATE
Amended Final Rdg
February 19, 2016

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

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

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

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

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

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

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

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

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

1 WHEREAS, These Good Samaritan groups are discouraged from
2 remediating abandoned hard rock mines because of the threat of liability
3 under the "Clean Water Act" (CWA) and the "Comprehensive
4 Environmental Response, Compensation, and Liability Act of 1980"
5 (CERCLA) for such third-party reclamation efforts; and
6

7 WHEREAS, While Good Samaritan legislation provides an
8 important opportunity for third-party reclamation efforts, it should not
9 excuse from liability those entities that, under existing environmental
10 regulations, bear responsibility for remediation of historic mines; and
11

12 WHEREAS, Public and local watershed input is critical for any
13 proposed plan to remediate an abandoned hard rock mine; and
14

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

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

23 *Be It Resolved by the Senate of the Seventieth General Assembly*
24 *of the State of Colorado, the House of Representatives concurring herein:*
25

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

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