

Oversight hearing focuses on the reclamation of abandoned hardrock mines

March 15, 2018

On March 15, the House Subcommittee on Energy and Mineral Resources held a hearing entitled “Abandoned Hardrock Mines and the Role of Non-Governmental Entities” to discuss the laws and procedures governing the reclamation of hardrock mines in the U.S. and highlight areas where reform is needed. A panel of expert witnesses at the hearing testified regarding the need for “Good Samaritan” legislation providing relief from potential liability as well as funding to facilitate the cleanup of abandoned hardrock mines.

The hardrock mining industry stimulates the economy with nonfuel mineral production in the U.S. valued at \$75.2 billion in 2017. The rare earth and other materials produced from this industry are used in everything from advanced weapons systems to infrastructure. However, there are hundreds of thousands of abandoned mine lands (AML) – inactive mining sites that were abandoned before the era of modern regulation – across the country that pose significant health and safety hazards, as well as environmental risks. The issue has been recognized by many non-governmental organizations (NGOs), including conservation organizations and industry groups, who are willing and able to lend their resources and expertise toward important cleanup projects voluntarily. However, these third-party actors or “Good Samaritans” with no responsibility for the existing damage present at AML sites are often deterred from participating in cleanup projects due to the potential long-term liability that could be incurred under current law. Historic discharges and other existing safety and environmental problems that are regulated under the Clean Water Act (CWA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) are of particular concern.

Autumn Coleman, manager of the AML Program within the Montana Department of Environmental Quality and vice president of the National Association of Abandoned Mine Land Programs (NAAML), explained that despite diligent efforts to restore lands and waters impacted by legacy hardrock mining, they are constrained by very limited resources in comparison to the scale of the problem facing the nation. Other witnesses on the panel echoed this sentiment, highlighting successful partnerships in the past which have helped to address the problem and several legislative approaches that could work well for Good Samaritans. Trout Unlimited President and CEO Chris Wood urged the Subcommittee to consider a pilot program in which the Environmental Protection Agency (EPA), in coordination with the states, could authorize five to ten projects aiming to produce significant improvements in water quality, implement best design and management practices, and conduct appropriate monitoring, without exposing Good Samaritans to future liability from the CWA and CERCLA once they have successfully completed their permitted work activities. Mr. Wood suggested the pilot program permit mechanism could be based on Senator Cory Gardner’s (R-CO) draft of the Good Samaritan Cleanup of Orphan Mines Act or Representative Doug Lamborn’s (R-CO-3) bill (H.R.3843) introduced in the 114th Congress. Senator Tom Udall (D-NM) has introduced similar legislation in the 114th Congress (S. 2254) and again in the 115th Congress (S.1833). Witnesses noted that in addition to helpful Good Samaritan provisions, a significant stream of funding is essential to fully address the water pollution resulting from half-a-million abandoned hardrock mines that are impacting our nation’s communities and public health.

Sources: U.S. Geological Survey, U.S. House Subcommittee on Energy and Mineral Resources, U.S. Senate
