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Drinking Water/Mining: American Water Works Association Letter to U.S. Senate Committee on Environment and Public Works Addressing "Good Samaritan" Legislation

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The American Water Works Association ("AWWA") sent a January 25th letter to both the Chair and Ranking Member of the United States Senate Committee on Environment and Public Works ("Committee") noting its approval of their efforts in advancing "Good Samaritan" legislation related to the clean-up of orphaned mines.

"Good Samaritans" refers to companies willing to conduct mine reclamation at one or more of the estimated 500,000 abandoned hard rock mines located in the United States.

Companies may not be willing in many instances to conduct such reclamation because of environmental liability concerns associated with the Clean Water Act and the Comprehensive Environmental Response, Compensation and Liability Act.

Potential liability concerns may also be relevant to state agencies, local governments and non-profits interested in undertaking reclamation.

Many orphan mines are releasing contaminants and pose continuing environmental problems because of the absence of past or current potentially responsible owners or operators. As a result, there has been interest for years in legislation that would allow "Good Samaritans" to seek a permit for reclamation and exempt remediation efforts from liability as long as they comply with the terms of applicable permits.

AWWA states that it has been working "internally" to:

... produce principles that will protect drinking water, as well as allow for more input from drinking water utilities in the creation of proposed remediation plans.

The organization states it has crafted the following principles related to Good Samaritan legislation which include:

1. Provide strict definition for "abandoned mine."
2. Maintain existing liability for polluters.
3. Identify and define Good Samaritans, as well as existing owners and operators of abandoned mines.

4. Identify and define existing owners and operators of abandoned mines.
5. Maintain liability of polluters even in cases of actions taken by Good Samaritans.
6. Expedite the approval process for Good Samaritan permitting.
7. Include language that all remediation plans must yield a net environmental benefit to relevant waters, and do no harm to existing environment.
8. Include language that all Good Samaritans must notify downstream utilities of actions planned and allow utility to prepare for or mitigate any potential consequences of such actions on drinking water, and to ensure monitoring after completion of remediation plan.
9. Include language that requires an EPA report to Congress and creation of online database of Good Samaritan projects.
10. Include a "Sunset Clause."

AWWA references draft legislation being considered by the Committee and states that it addresses nearly all of the principles to some extent. The organization does note in referencing the Animas River spill that public notification of all Good Samaritan projects will result in public knowledge and transparency. In addition, it states there is a need to require Good Samaritans to notify downstream utilities of the actions they plan to take as part of the approved remediation plan the risk of unintended actions that can harm the drinking water used for public consumption.

[Click here to download a copy of the letter.](#)