



Environmental Council of the States

1250 H Street NW, Suite 850 | Washington, DC 20005
(202) 266-4920 | www.ecos.org

October 27, 2022

The Honorable Jeff Merkley
U.S. Senate
531 Hart Senate Office Building
Washington, DC 20510

The Honorable Tammy Duckworth
U.S. Senate
524 Hart Senate Office Building
Washington, DC 20510

The Honorable Roger Wicker
U.S. Senate
555 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Cynthia Lummis
U.S. Senate
124 Russell Senate Office Building
Washington, DC 20510

Dear Chairs Merkley and Duckworth, and Ranking Members Wicker and Lummis,

The Environmental Council of the States, the national organization of the states' top environmental leaders, is encouraged by and enthused about Senate Bill 3571, the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2022. This bipartisan proposal will spur environmental remediation and source water protection, providing long-needed incentives for states, tribes, NGOs, and others involved in the cleanup of abandoned hardrock mines, while retaining important safeguards.

As outlined by ECOS Member Misael Cabrera of the Arizona Department of Environmental Quality in his testimony before the U.S. Senate, addressing Good Samaritans' exposure to liability via the pilot program proposed in Senate Bill 3571 is a critical step in allowing states, tribes, new owners, non-profits, and volunteers to accelerate clean-ups at abandoned hardrock mines. While the Comprehensive Environmental Response, Compensation, and Liability Act and the Clean Water Act contain joint and several liability as well as other provisions that are helpful in holding responsible parties liable, these same provisions can create barriers to pre-regulation abandoned hardrock mines where the responsible party no longer exists. And, given that the U.S. General Accounting Office reports that about 22,500 abandoned mine features across the U.S. "pose or may pose environmental hazards," this legislation, especially if coupled with funding of Section 40704 of the Infrastructure Investment and Jobs Act for abandoned hardrock mine reclamation, could result in significant and lasting improvements for our watersheds.

ECOS encourages you and your colleagues to advance this important legislation, and to consider additional clarifications. For example, the bill should ensure coordination with state primacy programs as sites are selected for the pilot and determinations of water quality progress are made. States are often best equipped with local knowledge of these sites and their impacts and will be essential partners in the process. The Good Samaritan policy should be crafted narrowly in order to avoid setting precedent beyond the scope of the legislation. The Committee should clarify that states will not assume liability by default for unintended consequences of any Good Samaritan efforts.

ECOS appreciates this important legislation, a fitting tribute to bipartisan progress as America celebrates the Clean Water Act's 50th anniversary and recommits to an even cleaner future. If you would like to discuss this further, please feel free to contact me at bgrumbles@ecos.org.

Sincerely,

Ben Grumbles
ECOS Executive Director

Cc:

The Honorable Thomas R. Carper
The Honorable Shelley Moore Capito

Myra Reece
South Carolina Department of
Health and Environmental Control
ECOS President

Chuck Carr Brown
Louisiana Department of
Environmental Quality
ECOS Vice President

Liesl Eichler Clark
Michigan Department of
Environment, Great Lakes, and Energy
ECOS Secretary-Treasurer

Todd Parfitt
Wyoming Department of
Environmental Quality
ECOS Past President

Ben Grumbles
ECOS Executive Director