June 30, 2025

Abandoned Mines Remediation in Colorado

Proposals for Federal and State Legislative Solutions

The Good Samaritan Remediation of Abandoned Hardrock Mines Act

And

The Colorado Environmental Good Samaritan Act

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Typical Good Samaritan Laws

The Focus is Protection From Civil Liability for Helping in an Emergency

Example - Virginia Law Protects Good Samaritans

- The law protects people who stop to help because it encourages people to help each other during an emergency.
- If the law provided no protection for those who did try to help others in emergency situations, then far fewer people would.

Virginia's Law

- The Virginia Good Samaritan Law, Va. Code § 8.01-225, generally protects those who try to ***help accident victims***.
    - **How Does Virginia's Good Samaritan Law Work?**
- Under Virginia law, anyone who renders emergency aid to someone who is at risk of serious harm or death is immune from civil liability for injuries or death of that person.
- However, several conditions must exist in order for a person to receive this protection.
- The law shields a person from liability who acts reasonably to help someone in need at the scene of a wreck.

All 50 States Have Some Version

- All 50 states and the District of Columbia have some type of Good Samaritan law. The details of good Samaritan laws/acts vary by jurisdiction, including who is protected from liability and under what circumstances.
- The laws include all 50 states:
- https://recreation-law.com/2014/05/28/good-samaritan-laws-by-state/

Colorado

- C.R.S. Section 13-21-108.
  - Persons rendering emergency assistance exempt from civil liability

Colorado

- (1) Any person ***licensed as a physician and surgeon*** under the laws of the state of Colorado, or ***any other person, who in good faith renders emergency care or emergency assistance*** to a person not presently his patient without compensation at the place of an emergency or accident, including a health care institution as defined in **section 13-64-202 (3)**, ***shall not be liable for any civil damages for acts or omissions made in good faith*** as a result of the rendering of such emergency care or emergency assistance during the emergency,
- ***Unless the acts or omissions were grossly negligent or willful and wanton.***

Colorado

- This section shall ***not*** apply to any person who renders such emergency care or emergency assistance to a patient ***he*** is ***otherwise obligated to cover.***
  - ***So, does this section apply to women?***
    - ***Claro***
      - ***Ciertamente***
        - ***Si***
          - ***Of course, amigos***

Colorado

- (2) Any person while acting as a ***volunteer member of a rescue unit***, as defined in **section 25-3.5-103 (11), C.R.S.**, notwithstanding the fact that such organization may recover actual costs incurred in the rendering of emergency care or assistance to a person, who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident ***shall not be liable for any civil damages for acts or omissions in good faith***.

Colorado

- (3) Any person, including a ***licensed physician, surgeon, or other medical personnel,*** while ***acting as a volunteer member of a ski patrol or ski area rescue unit*****,** notwithstanding the fact that such person may receive free skiing privileges or other benefits as a result of his volunteer status, who in good faith renders emergency care or assistance without other compensation at the place of an emergency or accident ***shall not be liable for any civil damages for acts or omissions in good faith***.

Colorado

- (5) An ***employer shall not be liable for any civil damages for acts or omissions made by an employee*** while rendering emergency care or emergency assistance if the employee:
  - (a) Renders the emergency care or emergency assistance in the course of his or her employment for the employer; and
  - (b) ***Is personally exempt from liability for civil damages for the acts or omissions*** under subsection (1) of this section.

That Sets The Stage

If you're being a good person

Trying to help out

And didn't cause the problem

A Good Sam (or Good Samantha)

Should NOT have to worry about being liable

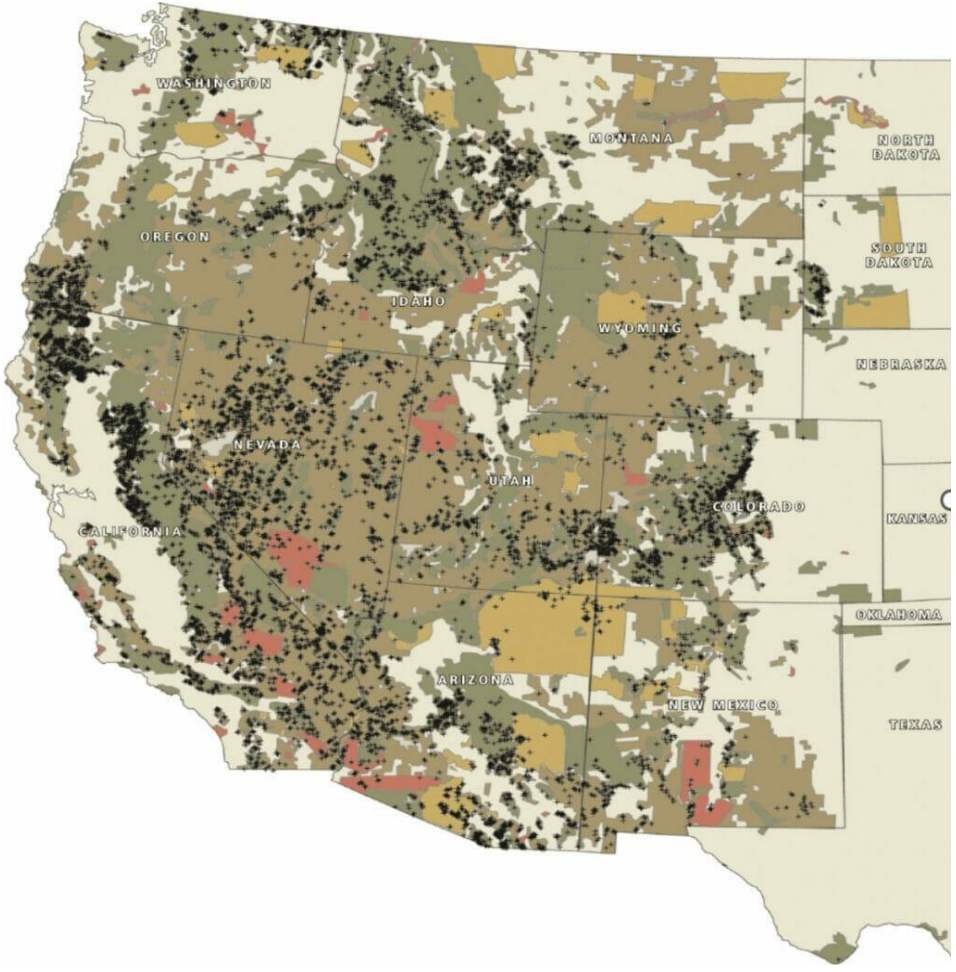
For voluntarily helping to fix the problem

Our Problem?

Wherever you have mineral development

You'll have abandoned mines,

oil and gas wells, and operations



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For Some Problems

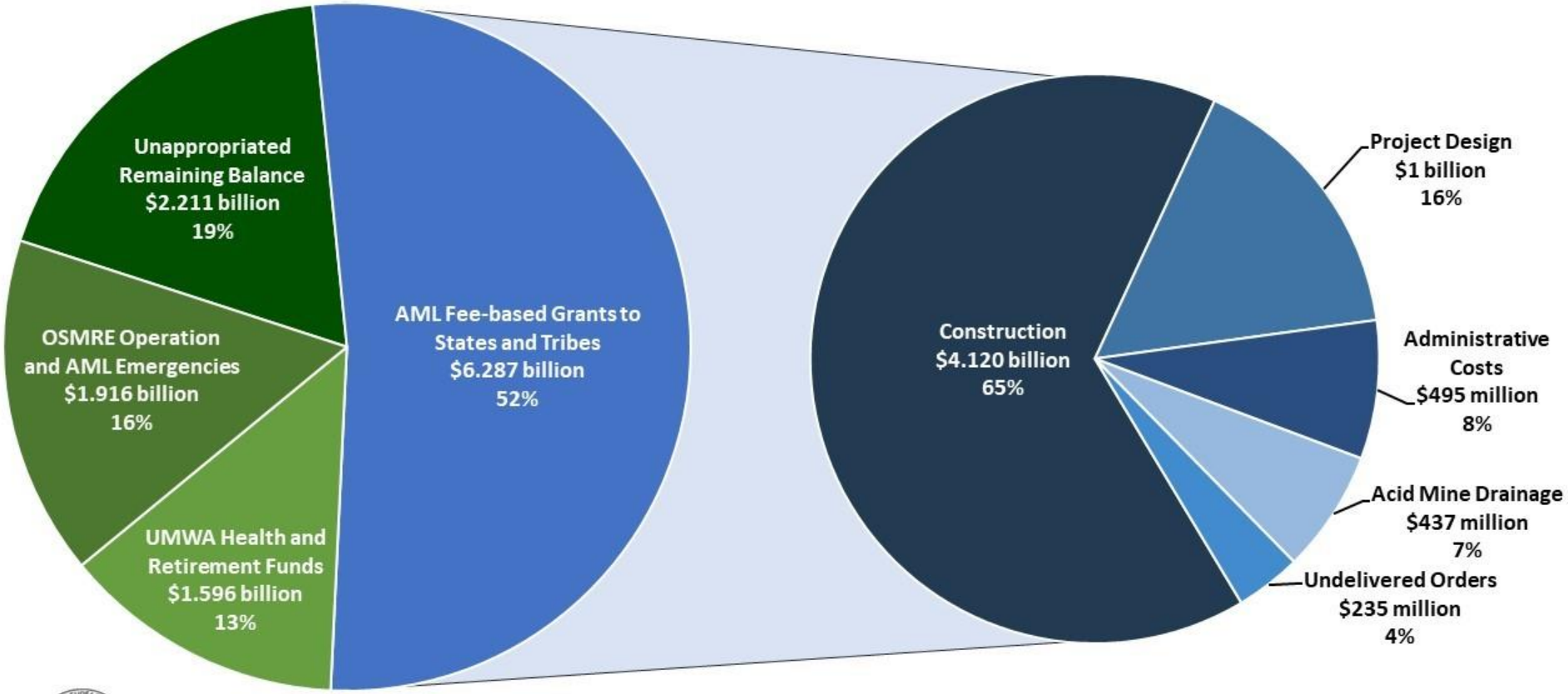
Lots and Lots of Money

SMCRA, For Example

Abandoned Mine Land (AML) Fee-based Reclamation Fund

FY 1977 – FY 2022

Total $12.010 Billion including Interest Earned, as of September 30, 2022



Data Sources: OSMRE's DOI Financial Business Management System (FBMS) is the system of record for the AML Program that contains comprehensive information on AML grant allocations and expenditures.

The enhanced Abandoned Mine Land Inventory System (e-AMLIS) only accounts for direct construction costs to reclaim each AML problem.

But Not For These Problems









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Federal Legislation

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Bipartisan Federal Legislation
The Legal Conundrum

- There are two types of hardrock mining pollution – waste rock piles and draining mine openings. The Clean Water Act addresses these differently, creating the need for Good Samaritan legislation.
- Under current laws, Good Samaritans can and do perform ‘dry site’ projects that prevent contaminated waste rock from intermingling with water.
- For instance, a project might move waste rock away from streams, cap the waste rock with impermeable materials or haul waste rock away for dry disposal.

Bipartisan Federal Legislation
The Legal Conundrum

- However, under the Clean Water Act, a mine discharging polluted water out of a tunnel is considered ‘point-source’ pollution, meaning it is a contaminant that enters the environment from an easily identified and confined place.
- As such, a mine operator is required to obtain a discharge permit under the National Pollutant Discharge Elimination System and meet the conditions of the Clean Water Act with water treatment.

Bipartisan Federal Legislation
The Legal Conundrum

- This is an effective system and necessary to maintain the health of our nation's waters –
  - ***Except when there's an abandoned mine with no entity legally responsible for the cleanup.***
- In this situation, the liability for the pollution could transfer to the Good Samaritan, leaving them on the hook for any remaining pollution
  - ***Even though they did not create the pollution in the first place and have made successful improvements to water quality with their remediation project.***

Bipartisan Federal Legislation
The Legal Conundrum

- In most cases, the only way to meet Clean Water Act standards for acid mine drainage is through active treatment facilities, but the remote location of many abandoned mines precludes the use of active treatment systems.
  - ***In these situation passive treatment technologies and nature-based solutions are the best and most cost effective way to improve water quality.***
- This might include tumbling mine water over limestone rocks to lessen the acidity, and engineered wetlands or settling ponds to capture heavy metals.

Bipartisan Federal Legislation
The Legal Conundrum

These are the types of low-risk projects that Good Samaritan legislation would implement to help make our nation's waters more swimmable, fishable and drinkable.

The Superfund Law

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Who Is Liable Under CERCLA

Although EPA cleans up some sites itself, it may also compel "potentially responsible parties" (PRPs) to perform or pay for the cleanup. Private parties and federal, state, and local governmental entities can be liable as PRPs.

Section 107 of CERCLA establishes financial liability for four categories of PRPs:

- **any current owner or operator of a vessel or facility;**
- **any person who owned or operated a facility at the time hazardous substances were disposed of there;**
- **any person who arranged for the disposal or treatment of hazardous substances at a facility or incineration vessel, or who arranged for transport for disposal or treatment of hazardous substances; and**
- **any person who transported hazardous substances for disposal or treatment at facilities, incineration vessels, or sites selected by such person.**

The Superfund Law

Scope of Liability

PRPs in the listed categories are liable if there has been

(1) an actual or threatened release

(2) of a hazardous substance (not a pollutant or contaminant) that

(3) causes the incurrence of response costs.

Liability is retroactive (parties may be liable for the release of hazardous substances prior to CERCLA's enactment in 1980), strict (regardless of a party's negligence), and

Joint and several (a party may be liable for all cleanup costs at a site, even if other parties also contributed to the contamination).

The Superfund Law

PRPs in the listed categories are also liable for injury to natural resources, meaning that they must either restore natural resources that are injured as a result of a release, or pay compensation for restoring or replacing the injured or lost natural resources.

Unlike claims for cleanup costs, claims for natural resource damages may be brought only by federal, state, or tribal trustees.

Finally, PRPs may be liable for the cost of natural resource damage assessments and federal public health studies at release sites conducted under Section 104(i).

The scope of liability does not include product liability, liability for personal injury or property damages, or health effects or medical costs resulting from a release.

Colorado Water Quality Control Commission Supports Federal "Good Sam" Legislation

- **As early as February 7, 2019, the Colorado Water Quality Control Commission issued a Policy Resolution in support of federal legislation.**
  - ***https://drive.google.com/file/d/1tL6maoVb0GdpDFxE43UevrRZbtBJTA41/view***
  - ***The Commission "calls on Congress to legally protect Good Samaritans that clean up abandoned mines, including local and state government agencies, from becoming legally responsible under Sections 301 and 402 of the CWA for any continuing discharges from the abandoned mine."***
  - ***The Commission "would also support legislation establishing pilot projects to address liability issues for Good Samaritans at individual sites to help pave the way for comprehensive legislation, if comprehensive legislation addressing these issues is not possible in the short term"***

Federal Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024

On December 17, 2024, President Biden signed into law the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024.

www.congress.gov/118/plaws/publ155/PLAW-118publ155.pdf

- The Act promotes the remediation of abandoned hardrock mine sites by Good Samaritans. Under the Act, Good Samaritans may apply to obtain investigative and/or remediation permits and implement remediation projects at eligible abandoned hardrock mine sites. The Good Samaritan is shielded from certain liability risks while voluntarily implementing the remediation of an abandoned hardrock mine within the terms of their permit.

The federal legislation establishes a new **pilot program** administered by the Environmental Protection Agency to permit up to **15 Good Samaritan abandoned mine cleanups.**

Legislation would require remediation projects to pose a low risk to the environment and produce improvements in environmental conditions, while also stipulating requirements for public involvement, environmental review, public hearings and state and tribal consultation.

Federal Good Samaritan Legislation

If a permit is approved, qualified Good Samaritans would be provided with **conditional liability relief,** which will allow them to move forward with projects addressing harmful abandoned mine waste.

Additionally, provisions specify that **mining activities are strictly prohibited**.

Importantly, if a permit violation causes an uncorrected worsening of environmental conditions, all liability protections would be revoked and the permittee would be subject to all applicable environmental laws, including citizen lawsuits under the Clean Water Act.

The Colorado Facts

- Estimated ***23,000*** abandoned mine lands (AML) in Colorado
  - Source: Colorado Geological Survey
- The Colorado Geological Survey conducted an abandoned mine land (AML) inventory for the U.S. Forest Service on National Forest System lands in Colorado from 1991 through 1998.
  - The inventory identified physical and environmental hazards associated with mine features such as mine openings, waste rock dumps, tailings dumps, and mine structures.
- Approximately ***18,000*** individual mine features were inventoried!

Colorado's Inactive Mine Reclamation Program

- Since 1980, the ***Inactive Mine Reclamation Program*** which is run by the Division of Reclamation, Mining and Safety ("DRMS") (Michael Cunningham, Director) has safeguarded over 10,500 hazardous openings and reclaimed 4,000 acres of abandoned mined land statewide.
- Link: https://drms.colorado.gov/programs/inactive-mine-reclamation-program/inactive-mine-reclamation-program-progress-and
- The major program activity is to identify the hazards and environmental problems arising from abandoned mines, design appropriate closure methods and reclamation techniques for project sites and reclaim or safeguard abandoned mine hazards and environmental problems with the landowner's consent.

Colorado's Inactive Mine Reclamation Program

- Project activities include:
  - field investigations,
  - project development,
  - project design,
  - realty work,
  - historical and cultural resource evaluation,
  - wildlife considerations,
  - NEPA compliance,
  - construction contract bidding and management,
  - site construction and reclamation,
  - construction inspection, and
  - site monitoring and maintenance of prior project work.

Colorado's Inactive Mine Reclamation Program

- DRMS has numerous partners participating in mine safety closure projects with the goal of alerting the public to the hazards of exploring abandoned and inactive mines.
- Partners include the Bureau of Land Management, the U.S. Forest Service, Colorado Division of Parks and Wildlife, Women in Mining, local county and city governments, mining associations, private citizens, and the Colorado Scenic and Historic By-Ways Commission.

Governor Signs SB 25-054 on May 16, 2025

- The "Legacy Mining and Modernization Act" addresses key issues related to mining reclamation in Colorado.
- The Act creates a new permit type specifically for cleaning up abandoned mine waste piles on less than five acres, allowing operators to conduct reclamation-only operations with expedited processing.
- It updates financial warranty and forfeiture procedures, requiring that warranties reflect the actual current cost of reclamation and that 100% of forfeited warranty proceeds be used for reclaiming the specified lands.
- The Act ratifies Colorado's membership in the Interstate Mining Compact, which establishes a commission to study mining operations, improve land and resource conservation, and promote environmentally responsible mining practices.
- The Act emphasizes the importance of revegetation using native, pollinator-friendly plant species and seeks to return mined lands to beneficial uses for local communities.
- The Act defines key terms like "legacy mine" and "mining" and provides regulatory oversight to ensure proper reclamation of abandoned mining sites while potentially facilitating the recovery of valuable minerals and strategic resources.

Governor Signs SB 25-054 on May 16, 2025

LEGACY MINE" MEANS A MINE

WHERE PRE-LAW MINING OPERATIONS HAVE OCCURRED

OR THE MINING OPERATIONS HAVE BEEN ABANDONED,

AND NO BOND OR OTHER FINANCIAL ASSURANCE
OR RECLAMATION RESPONSIBILITY COVERING

THE RECLAMATION OF THE LAND AFFECTED BY
THE MINING OPERATIONS EXISTS.

The Colorado Good Samaritan Act (The "CGSA")

Proposed state legislation would

complement, not supplant,

the existing Inactive Mine Reclamation program run by DRMS or

The Legacy Mining and Modernization Act.

The Colorado Good Samaritan Act (The "CGSA")

In addition, this proposed state law does not supplant or override the provisions of federal law.

The Clean Water Act, Clean Air Act, RCRA, Superfund and other federal laws would still be alive and well in Colorado.

The Colorado Good Samaritan Act of 2026 (The "CGSA")

The proposed CGSA provides incentives for, and attempts to remove roadblocks

To encourage and allow Good Samaritans to engage with others to reclaim abandoned sites.

The Pennsylvania Environmental Good Samaritan Act of 1999

- The Colorado proposed legislation is based on the Pennsylvania statute which was signed into law on December 15, 1999.
- Link to text of *Pennsylvania Environmental Good Samaritan Act*
- https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=27&div=0&chpt=81

Outline of the Colorado Proposal

The Act's Purpose

- The proposed statute would protect landowners, groups and individuals who volunteer for such projects from civil and environmental liability.

- Law is intended to encourage landowners and others to reclaim abandoned mineral extraction lands and abate water pollution caused by abandoned mines, and oil and gas wells.

- The Colorado Department of Public Health and Environment and the Colorado Department of Natural Resources would review project proposals for protection under the Good Samaritan Act and will administer and review project proposals to determine project eligibility.

Who is eligible for protection under the Act?

- ***Any landowner who provides access*** to the land without charge or compensation for a reclamation or water pollution abatement project is ***eligible for protection*** under the Act.

- Additionally, any ***person, corporation, nonprofit organization or government entity*** that participates in a project is ***eligible for protection*** if they:

Who is eligible for protection under the Act?

- ***Provide equipment***, materials or services for the project for no profit;
- ***Did not cause or create*** the abandoned mineral extraction land or water pollution;
- ***Were not ordered by the state or federal government*** to do the work;
- ***Are not performing the work under a contract for profit***, such as a competitive bid project; and
- ***Are not the surety*** that issued the bond for the site.

What types of land reclamation projects are covered?

- ***Eligible projects*** are those that restore mineral extraction lands that have been abandoned or not completely reclaimed.
  - This also includes areas where the mine operator has forfeited bonds on the site.
- ***Typical conditions that are suitable*** for land reclamation projects include features such as, but not limited to, abandoned mine pits and underground mine entrances, refuse piles, and unplugged oil and gas wells.
- ***Projects addressing areas*** where abandoned structures or equipment from past mineral extraction operations are located are also eligible.
- ***State agencies must approve each project and determine that the project will not cause water pollution.***

What types of water pollution projects are covered under the Act?

- Eligible water pollution abatement projects are those that
  - ***Treat or stop water pollution caused by abandoned mines or oil and gas wells.***
- Project proposals must be capable of *improving water quality* and must be approved by the agencies.

What protections are provided to landowners who allow their property to be used for a water pollution abatement or land reclamation project?

- Landowners who provide access to the project area are ***not*** responsible for:

  - Injury or damage to a person who is restoring the land or treating the water pollution while the person is on the project area;

  - Injury or damage to a person that is caused by the people restoring the land or treating the water pollution;

What protections are provided to landowners who allow their property to be used for a water pollution abatement or land reclamation project?

- Injury or damage to a person as a result of the project;

- Any pollution that may be caused by the project; or

- The operation, maintenance or repair of any water pollution treatment equipment constructed on the land,
  - unless the landowner damages or destroys the water pollution treatment equipment or refuses to allow the equipment to be operated or repaired.

Are there exceptions to the protections provided to landowners under the Act?

- Landowners will ***not*** be protected from liability if they:
  - *Deliberately or recklessly* cause injury or property damage;
  - ***Charge a fee*** or receive some other form of compensation for access to the land;
  - ***Violate the law***; ***or***
  - ***Fail to warn*** those who are working on the project about any dangerous conditions of which they are aware within the project work area.

Are there exceptions to the protections provided to landowners under the Act?

- In addition, landowners will ***not*** be protected under the Act if the project damages adjacent or downstream landowners, ***and***
- Those individuals had ***not*** received written or public notice of the proposed project.
  - This notice is given while the agencies are reviewing the proposed project.

What protections are available to individuals who participate in a land reclamation or water treatment project?

- Participants in a land reclamation or water pollution abatement project are ***not*** responsible for:
  - Injury or damage that occurs during the work on the project;
  - Any pollution coming from the water treatment facilities; or
  - Operating, maintaining or repairing the water treatment facilities.

Are there any exceptions to the protections provided to a participant in a land reclamation or water treatment project?

- Participants will ***not*** be protected from liability if they:
  - ***Cause increased pollution*** by activities that are unrelated to work on the approved project;
  - ***Deliberately or recklessly*** cause injury or property damage; or
  - ***Violate the law***.

Are there any exceptions to the protections provided to a participant in a land reclamation or water treatment project?

- Additionally, participants are ***not*** protected under the Act if the project damages adjacent or downstream landowners, ***and***

- Written or public notice of the proposed project was ***not*** provided.

  - This notice is given while agencies are reviewing the proposed project.

The Act Does NOT Supplant Federal Law

- The Colorado Good Samaritan Act provides protection under ***state law only*** and does ***not*** apply to federal law.
- While Colorado agencies determine project eligibility under the Act, the agencies do ***not*** have the authority to make legal rulings on who receives protections from liability.
  - Who decides that issue?
    - Judge in a court of law.
- If a landowner or participant in a project is sued for injury or damage,
  - They ***should use*** the agencies' approval of the project and record of participation by landowners and others in their defense.

How does anyone get protection under the Act?

- Only projects ***approved by the Colorado agencies*** are eligible for protections under the Good Samaritan Act.
  - The agencies will develop a ***project proposal form*** for participants and landowners.
- ***Each proposal must***
  - Identify the project participants and landowners,
  - Describe the location of the project and the environmental problems that will be addressed, and
  - Establish a work plan for the proposed project for agency approval.

How does anyone get protection under the Act?

- The ***agencies will evaluate each proposal*** and determine if the project is capable of reclaiming the land or improving water quality.
- The agencies will also advise participants on any ***permits*** that may be needed.
- ***Once the project is approved,*** the agencies will maintain a permanent record of the participants and landowners who are protected under the Good Samaritan Act.

Positive Reinforcement





Mine Reclamation



Before



After

Reclamation of Abandoned Coal Mines in Ağaçlı, İstanbul





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Pennsylvania Environment Digest Blog
Coal Mine Reclamation



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Before

Harmony Lake, MO

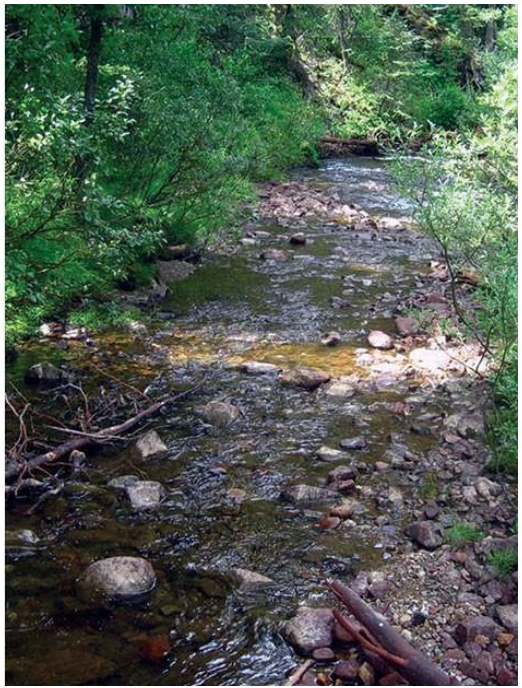
After





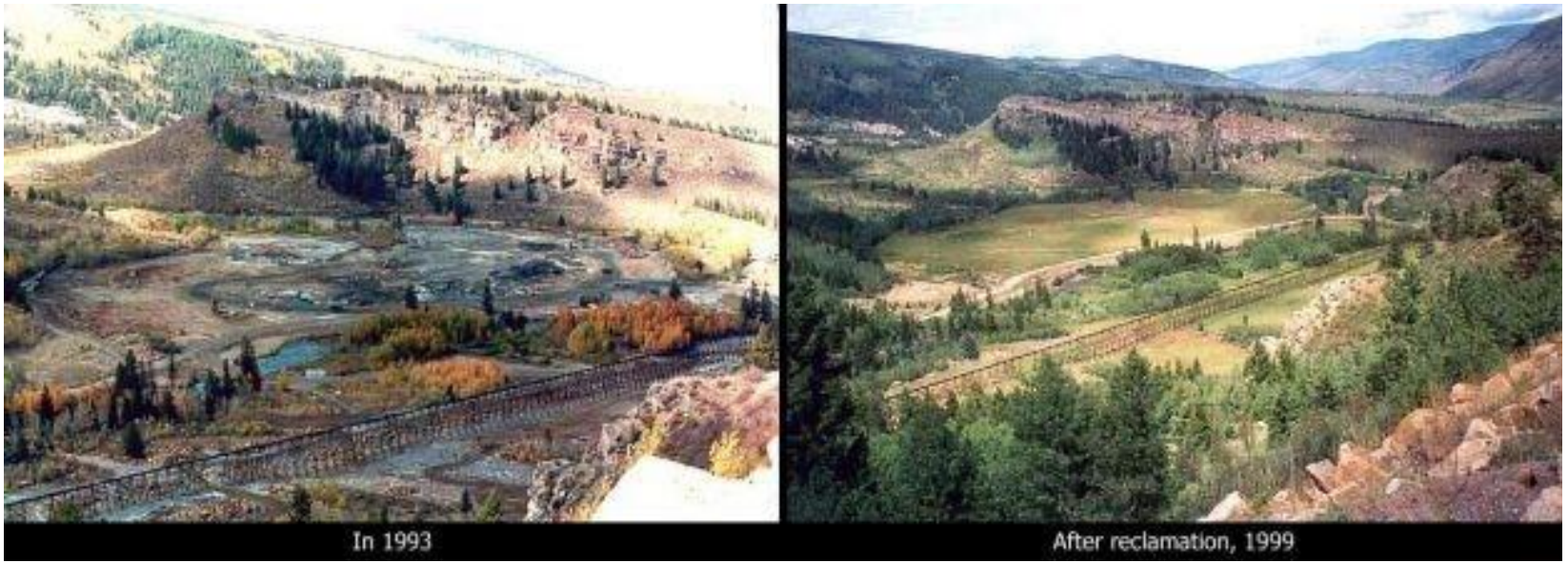
Yellowstone's Soda Butte Creek
U.S. Park Service





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Eagle Mine, Colorado



Hope Mine Near Aspen, Colorado

Revegetation Using Biochar



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Thank You



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