

# NAAML P

NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS

**NEWSLETTER**  
Fall 2020 Vol. 42 No. 2

**INSIDE**

President's Message  
Stan Barnard Award .....2  
Tom Henderson Award.....3  
Dave Bucknam Award .....4  
NAAML P Scholarships .....4  
Alan Edwards Retires .....5  
NAAML P Reclamation Awards ..6  
Prognosis for AML .....9  
NAAML P Transition Report .....11  
    Letter to Kevin Washburn  
Transition Team Report.....13  
SMCRA Fee Resolution .....24  
Statement of John Stefanko ....27  
Statement of Travis Parsons ...40

**UPCOMING MEETINGS**

**Winter Business Meeting**

Virtual - Go To Meeting  
Feb 23 - 24, 2021  
11:00 - 4:00 CST  
Details and meeting links  
will be sent by e-mail

**MISSION STATEMENT**

1. To provide a forum to address current issues, discuss common problems and share new technologies regarding abandoned mine land reclamation;
2. To foster positive and productive relationships between the states and tribes represented by the Association and the federal government;
3. To serve as an effective, unified voice when presenting the states'/tribes' common viewpoints; and
4. To coordinate, cooperate and communicate with the Interstate Mining Compact Commission, and all other organizations dedicated to wise use and restoration of our natural resources.

**Letter From the President**

Dear NAAML P members, friends and partners,

Our world has dramatically changed this year but one thing that has remained constant is our commitment to reclamation and our important AML work. COVID-19 has disrupted every aspect of our daily lives and I know this has been an extremely challenging time for everyone. But despite these challenges, we have found ways to safely continue our work with landowners, partners and local governments. I love hearing about the creative ways AML programs have continued outreach efforts with videos and virtual field days, continued bid lettings in new and creative ways, and continued collaboration with other States and Tribes to learn from each other.

In preparing to write this message, I enjoyed looking back at several fall newsletters and the messages from past Presidents. In a year that has felt a bit isolating at times, it was encouraging to reflect on all the friendships I have made from being a part of this association. There is a strong line of leaders to rely on and I truly appreciate all the dedication and history they bring to the association. I want to take a moment to thank everyone that encouraged me to leap into a leadership role and for electing me President this year. The trust and confidence granted to me in this position is daunting but challenges me to live up to all your expectations. And, I have to thank outgoing President, Travis Parsons, for all his support and insight. Travis was able to navigate a year of challenges with reauthorization and RECLAIM, continue managing his AML program in West Virginia, and then postpone our fall conference and rearrange it into a virtual meeting. He quickly came up with solutions and pulled off a very successful meeting – he even found a way to include some social time! Because, let's be honest, the true value of our conferences and meetings are the personal interactions – the conversations on a bus tour, the chatter during a social hour, the moments caught in the hallway to tackle an issue. While we have had to make the difficult decision to go virtual for our February winter business meeting, hopefully we can find some creative ways to make it enjoyable and have meaningful interactions. We also need to share our gratitude to the Nevada and Alabama programs for all their hard work planning the meetings, tours and events and the added effort of rescheduling to a later date. Fingers crossed that we will all be back together at State Line, Nevada in September of 2021!

We can't lose focus that this is an important time for the AML Program with the need for reauthorization looming in less than a year. Meaningful interaction will be needed at the virtual February meeting and likely many times in the next year. I encourage everyone to be engaged and review the transition items that are included in this newsletter. I want to give a big thank you to Greg Conrad and the staff at IMCC for drafting our transition piece for the new Biden/Harris administration. Greg, as usual,



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crafted a document that clearly lays out our positions and concerns, while using well-placed adjectives to drive the points home. The work and outreach that IMCC provides for the association are hard to quantify. I appreciate all the connections they have made over the years with congressional leaders and how willing IMCC is to keep us updated as conversations occur. Here's hoping 2021 is a productive year that leads to a successful reauthorization and a predictable future for our programs to move forward.

As we have said many times over the last few years, [Our Work's Not Done](#), but together we can continue our commitment to AML reclamation and improve our lands for future generations. Jeff Graves (NAAMLPL Vice President), Ben McCament (NAAMLPL Secretary/Treasurer) and I look forward to serving you in the coming year – please reach out with any thoughts you may have for the association.

*Sincerely,*



**Susan Kozak**  
**NAAMLPL President**

## **Stan Barnard Award - Brian Bradley**

**Brian J. Bradley, Assistant Bureau Director**  
**Pennsylvania Department of Environmental Protection**  
**Bureau of Abandoned Mine Reclamation (Pennsylvania AML Program)**

Brian began his career with the Pennsylvania DEP in the mine regulatory program in 1985 as a Mining Specialist Trainee reviewing surface mining permit applications. He moved to PA's abandoned mine land (AML) program in 1986 as a geologist Trainee. Brian began his career in the AML Program as a project developer working to complete project development for pre-SMCRA AML sites and bond forfeiture sites. Within the project development group in the Bureau of Abandoned Mine Reclamation's Harrisburg office, he steadily advanced up the career ladder. He advanced to a Hydrogeologist 1 in 1987, to a Hydrogeologist 2 in 1990, to a Professional Geologist Manager in 1993, to the Chief of the Division of Project Development in 2005, and finally, in 2016, to the position of Assistant Bureau Director. Brian has spent the last 34 years working to reclaim PA's large inventory of AML features and to restore AMD impacted streams. Brian recently achieved 35 years of service with the Commonwealth of Pennsylvania.

Brian is a dedicated public servant committed to the elimination of health and safety hazards and the restoration of environmental degradation resulting from abandoned and unreclaimed coal mining sites located across both the anthracite and bituminous coal fields of Pennsylvania. He has not only worked on abandoned mine land issues in Pennsylvania but has been involved in national AML issues by actively serving as Pennsylvania's alternate delegate to the National Association of Abandoned Mine Land Programs since 2012. Brian is an active member of NAAMLPL who shares his perspective and thoughtful advice during NAAMLPL business meetings.

Brian has served in a variety of capacities during his involvement with NAAMLPL. Since its inception in February of 2014, he has served as the co-chairman of NAAMLPL's Reauthorization Committee. The role of the committee has changed significantly over time, and Brian has been able to quickly adapt and continue undeterred with the main goal of seeing the AML fee reauthorized beyond its current expiration in September 2021. He also accepted another leadership role as the chairman of the Data Reporting Workgroup which grew out of the December 2017 AML Summit. The AML Summit was a collaboration between NAAMLPL, OSMRE, and the IMCC to look at several SMCRA Title IV issues of mutual concern to all involved and work together to share a common message related to the need for reauthorization of the AML Program. More recently, these two roles grew together and NAAMLPL decided in September 2018 to form the Title IV Oversight Steering Committee (or Workgroup). Brian has served as a hardworking member of this committee since its establishment. Brian has served in leadership roles on many of these committees and workgroups. He has worked hand in hand with staff from OSM Regional offices, OSM Headquarters, IMCC, other NAAMLPL member states and tribes, and various NGOs.

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In support of NAAML P, Brian played a key role in several of the annual NAAML P Conferences hosted by Pennsylvania (1999 – Seven Springs; 2010 – Scranton; and 2019 – Pittsburgh). For the most recent conference which took place last September in Pittsburgh, Brian served on three standing committees including Budget and Finance, Registration, and Hotel and Meeting Space. He played a key role with the Hotel and Meeting Space committee assisting with the negotiating of contracts with the facilities and ensuring that all details required for a successful conference and business meeting were addressed. He wanted to ensure that his fellow NAAML P colleagues would not only have a facility where they could conduct both a productive and successful conference and association business meeting, but they would also be able enjoy their time in Pittsburgh, Pennsylvania.

During Brian's involvement with NAAML P, he has been involved at some level in a host of AML issues including review and analysis of proposed legislation and evaluation of several initiatives being pursued or considered at the national level. These include the Abandoned Mine Land Economic Revitalization or AMLER proposal in 2015; multiple versions of the federal RECLAIM Act (a.k.a: The Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act) in 2017 and 2019; the AML Pilot Program beginning in 2016 and continuing to the present; continued federal budget sequestration and its impact on AML grants since 2013; reauthorization of SMCRA Title IV (including various bills and proposals); various issues related to federal budgets and associated continuing resolutions; coal Good Samaritan bills; Abandoned Mine Land Inventory System (e-AMLIS) analysis and issues; undelivered orders; and OSMRE AML Program oversight issues.

Working in concert with his efforts on behalf of NAAML P, Brian has been very active with the IMCC and its AML Committee, pursuing many of the same issues and initiatives as NAAML P. In many ways, he has served as an adjunct staff member to IMCC, assisting Greg Conrad, Tom Clarke and, in the recent past, Ryan Ellis, with the Commission's legislative and policy work. According to Greg Conrad, IMCC could not have accomplished all that they had, especially on AML reauthorization, without Brian's diligent, thoughtful and consistent advice, counsel and input.

Brian is well respected among the members of NAAML P as well as the staff of the Office of Surface Mining, Reclamation and Enforcement. In fact, OSM has from time to time requested his input on and review of AML-related issues and work products. In all that he does, Brian exudes Stan-like qualities. Like Stan, his positive attitude and never give up approach to solving problems are infectious, and similarly, his demeanor has a way of putting people at ease and getting everyone to work together.

Stan Barnard had a warm personality and enjoyed the company of his colleagues and friends. Brian Bradley shares these traits. He is a very positive and warm-hearted person. He is very committed to NAAML P and the AML Program and is always willing to offer advice or to help others out with any AML or NAAML P issues. He takes great pride in the work the Pennsylvania AML Program does as well as the combined accomplishments of all of the member AML programs of NAAML P. He is a team player dedicated to ensuring the Association advances the cause of successful reclamation of AML in his home state of Pennsylvania and across the nation.

## **Tom Henderson Award - Mike Sharp Enhancing Reclamation through Technology**

### **Mike Sharp, Oklahoma Conservation Commission (Oklahoma AML)**

Mike has been a long time teacher and leader in the Technical Innovations and Professional Services (TIPS). He has used his technical background to impart wisdom to AML and OSMRE students by serving as an instructor in the Computer Aided Drafting (CAD) series of courses offered by TIPS for 20 years. Mike served on the Steering Committee for TIPS when that was a standalone committee. When TIPS and the National Technical Training Program (NTTP) steering committees merged into one, Mike still continued to serve as a member of the TIPS Technical Advisory Group (TAG). The TIPS TAG promotes a SMCRA-wide perspective regarding technical innovations and services that TIPS provides to the SMCRA community and Mike has been a key contributing member.

Mike is an expert in AutoCAD and SurvCADD programs and has been instrumental in keeping these programs available to the NAAML P community. Mike has a professional understanding of the course participants' various degrees of experience with CAD software and adapts his teaching to their abilities. He has participated on revisions and updates to the various CAD course series. Mike can relate the training materials and exercises back to real-world problems and field work situations that he has dealt with in AML.

Mike is a very deserving candidate to receive the Tom Henderson Award as Mike demonstrates a comprehensive application of technology to solve reclamation challenges and has a drive to pursue excellence. Mike employs his unique talents to enhance the implementation of SMCRA and solve some of the most difficult abandoned mine land impacts affecting the citizens of the nation. By sharing his skill set, Mike has had a ripple effect throughout all of the coalfields in helping reclaim historic mine scarred lands.

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## Dave Bucknam Award - John Mack

**John Mack, P.E. (Retired, now an ad hoc instructor) Civil Engineer  
Federal Office of Surface Mining, Reclamation and Enforcement  
Pittsburgh Field Division (PFD), Program Support Branch**

John has instructed AML Design Workshops for more than 20 years including Dangerous Openings (20 times), Mine Subsidence (8 times), Landslides (2 times) and Mine Fires (at least 12 times). Even in retirement, he is on OSM-NTTP's schedule to instruct 3 of these AML-related courses for OSM this year, although the pandemic may impact some or all those courses. He has taught and influenced somewhere between 500 to 1,000 AML practitioners over the years.

John has been very committed to his role as an instructor and is always committed to providing the most up-to-date and state-of-the-art information to his students. John has been involved in not only instructing several of the AML Design Workshops, but as a lead instructor has worked to update and revise the courses over the years to constantly improve and keep the course materials up-to-date. He always develops a good rapport with both the students and with his fellow instructors. John also invests time to locate and document good field sites to enhance the training experience of the students. He is very hands-on and genuinely cares about the reclamation work being completed across the country and training the next generation of AML reclamationists to continue that work. John retired at the end of 2019, and the Dave Bucknam Award would be a great tribute to his long career with OSMRE and his passionate commitment to the National Technical Training Program.

## NAAMLPScholarship Awards

### Western Recipient - Tanzila Alam, Yale University



Tanzila Alam is a rising junior who plans to study Environmental Engineering at Yale University this fall. Previously, she attended California State University, Fresno, where she majored in Civil Engineering and Environmental Sciences. Outside of the classroom, Tanzila is an undergraduate researcher, a community volunteer, and a student leader in various organizations on her campus and within the Central Valley. Growing up in California, Tanzila developed a strong interest in engineering and the environment over the years. Both of these fields play an integral role in her hope to become an environmental engineer within her state, which is home to many inactive mine sites. In the future, she is excited to pioneer solutions for land reclamation to combat mine subsidence, abandoned mine drainage, and landslides that pose a threat to human health and the environment.

### Graduate Recipient - Md Abu Raihan Chowdhury, Kent State University

Md Abu Raihan Chowdhury finished his undergrad from the Department of Geology at the University of Dhaka, Bangladesh. Having been born in Bangladesh, he has witnessed communities suffer from the lack of safe drinking water. Bangladesh experiences naturally occurring high arsenic concentration in its groundwater and the consumption of the contaminated water by marginal communities has resulted in what many refer to as the largest mass poisoning in history. The struggle of the relatively poor communities for safe drinking water has made him very passionate about the global water crisis and groundwater contamination. For his master's at Wright State University (WSU), OH he examined the effectiveness of the Nanoscale Zerovalent Iron and Powdered Activated Carbon composites for the contaminated groundwater remediations. After finishing his master's, he came to Kent State University for his Ph.D. in 2017. He started to work with his advisor Dr. David Singer who introduced him to the extent by which abandoned mines impact the surrounding environment and the communities. After conducting more research on the impact of abandoned mines he came to realize that even though scientists have been studying abandoned mine sites for decades, there is still a lot we do not know regarding the abandoned mines and its impacts; such as the occurrence and fate of the colloidal pyrite generated from abandoned mine spoils. He also realized that there is a vast scope for future research on abandoned mines. Future research on abandoned mines should also focus on new and improved technologies to remediate abandoned mine sites so that we can return the abandoned mines to the communities where they belong. More research needs to address possible extraction of rare earth elements from mine spoils and the acid mine drainage impacted areas. As a researcher, he wants to lead the future developments in the field of abandoned mine reclamation in a way that will benefit the communities around them and ensure those areas will not have to be abandoned anymore.



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## Alan Edwards, DEQ Deputy Director and AML Administrator, Retires

CHEYENNE – After many years spent enhancing Wyoming’s environment, Alan Edwards is turning his attention closer to home.

Edwards, deputy director and Abandoned Mine Land (AML) Division administrator for the Wyoming Department of Environmental Quality (DEQ), is retiring this month.

“Alan has shared a wealth of knowledge during his time here at DEQ,” said Todd Parfitt, DEQ Director. “He provided a powerful example of leadership and a significant record of accomplishments.”

Edwards came to work for DEQ’s Water Quality Division in 1982. He served in many roles, including supervisor of the EPA Wastewater Construction Grants program, DEQ representative to the State Loan and Investment Board and governor’s lead for the Brookhurst subdivision superfund site near Casper.

In 1986, he began working on environmental issues for Governor Mike Sullivan. That work included serving as governor’s representative for the Clean Air Act Amendments of 1990 and the Powder River Basin Regional Coal Team, and as a member of regional organizations such as the Western Interstate Energy Board.

In 1989, Edwards spent seven months serving as DEQ’s interim director.

He left to pursue other interests in 1991, but returned to DEQ in May 2010, this time as the AML administrator, a position he held for the past 10 years. Edwards also spent the past five-and-a-half years as deputy director of the agency.

Edwards regularly worked with the Interstate Mining Compact Commission (IMCC), spearheading efforts on the Stream Protection Rule and the 2015 reversal of a prior reduction in AML funds.

Recently, Edwards worked toward the reauthorization of AML funding, which is set to expire in September 2021.

Don Newton, an AML project manager for DEQ, said Edwards has been in the trenches on that project, testifying to Congress and acting as a spokesman for AML programs across the country.

“Without reauthorization, then funding for AML projects across the country goes away. We still have a lot of work to do,” Newton said.

Edwards spearheaded an effort to increase visibility of successful AML projects, as well as AML needs across the nation. That effort includes a website and social media for a project called “Our Work’s Not Done,” which compiles and promotes information about AML programs and accomplishments across the nation.

Edwards began that project as part of his work on a communications group through the National Association of Abandoned Mine Land Programs (NAAML). He co-chaired the group with Eric Cavazza, director of the Bureau of Abandoned Mine Land Reclamation for the Pennsylvania Department of Environmental Protection.



Cavazza explained that Edwards worked hard to ensure that all AML programs in the country understood how the AML revenue is generated and how the funds are distributed. These efforts helped to create stronger relationships between AML programs across the country.

Edwards served as the Wyoming representative to the NAAML. In 2018, Edwards received the Stan Barnard Memorial Award. This award is presented annually by the NAAML to an individual who, according to the organization, has shown “outstanding dedication, commitment and hard work toward the enhancement of the association.”

Edwards also brought attention to the economic benefits Wyoming’s AML projects provide to the state. He gives credit for that effort to his AML employees.

“They have worked together as a team to accomplish the mission and to support each other. One example of this is the significantly increased volume of consultant and construction work that is being done to support Wyoming workers, contractors and to provide economic benefit to the state and local governments,” he said, adding that he expects to see more than \$80 million in economic benefits to the state in 2020.

Edwards was instrumental in the establishment of the AML Native Plants Project, a multi-faceted project to restore the sagebrush steppe and protect sage grouse in Wyoming that includes partnerships with the Bureau of Land Management, The Nature Conservancy, the Wyoming Department of Corrections, Lander Middle School and several others.

Newton said it started when Edwards made a casual comment in a staff meeting that perhaps the AML program should return to old reclamation projects that had poor revegetation success to see if they could improve the sagebrush revegetation using more recent knowledge. The effort evolved into the much larger AML Native Plants Project.

Bill Locke, a former AML program manager, said, "It took a long time to get that project going, but he was more than willing to put the effort in and did. Consequently, we have a great program up and running."

He added that Edwards never shied away from some of the more difficult projects. "Alan was not afraid to jump in with both feet, roll up his sleeves and work with us to get things straightened out," Locke said.

Although much of Edward's work took place within the AML Division, he worked in nearly all of DEQ's divisions.

He served as acting administrator for the Solid and Hazardous Waste Division, during which time he led efforts to establish DEQ's Cease and Transfer and Landfill Remediation programs, both of which continue to be successful.

Edwards twice served as acting administrator for the Land Quality Division and served in that role to manage the Brook Mine LLC permit. Similarly, he acted in the capacity of Air Quality Division administrator to manage a permit for the Kemmerer power plant.

Notably, Edwards also helped create an agency-wide bonding program that brought all bonding efforts under one program.

"I could not have been as successful as I have been able to be without the support of the AML team and others that I have had the pleasure to work with across the agency as well as, especially, the director," Edwards said.

"I am looking forward to the next journey, but I leave with mixed feelings. To move on, some things will be left behind."

Luke Esch, administrator of DEQ's Solid and Hazardous Waste Division is taking over as deputy director of the agency. He will serve as interim administrator for the AML Division, as well.

Of Edwards, Esch said, "I have always been impressed at the level of dedication and hard work he puts in every situation. He has been a champion for the AML Program nationally and been a leader in the field. He has been a great example and a mentor to me and many others who will work together to continue the legacy that he leaves behind."

**Published: Oct. 23, 2020**

**By Kristine Galloway**

## **Ehrenfeld AML Pilot Project - Pennsylvania**

### **Reclamation/Recreation & Watershed Improvement**

#### **National Award Winner**

Approximately 70 acres of coal refuse piles located along the "Johnstown Path of the Flood Trail," posed multiple environmental threats to the area. Frequent erosion clogged an unnamed tributary to the Little Conemaugh River, as a result, highly acidic water leached into and subsequently impaired local streams, burning areas of refuse piles and degrading air quality for the residents. To address these hazards, Pennsylvania's AML Program removed the refuse piles, eliminated the surface burning conditions and improved the Little Conemaugh watershed. The reclamation project has resulted in new opportunities for recreation and tourism with the addition of a community park and safer walking trails.



[Watch a video about the Ehrenfeld Pilot Project](#)

**[Pennsylvania Department of Environmental Protection](#)**  
**[Bureau of Abandoned Mine Reclamation](#)**

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## Ridgeway Drive Landslide Emergencies - West Virginia

### Appalachian States Regional Award Winner

In 2018, West Virginia received two different reports of landslides within the same neighborhood. Calls from concerned residents regarding these slides, and the subsequent investigations by West Virginia's AML program, revealed that more than 10 homes were threatened, while another home had slid partially downhill. With the threat to people's lives and property imminent, West Virginia's quick response abated the threats to the residents and helped to stabilize their properties, preventing further damage and economic loss.



[Watch a video about the Ridgeway Drive Slide](#)

[\*\*West Virginia Department of Environmental Protection\*\*](#)  
[\*\*Office of Abandoned Mine Lands and Reclamation\*\*](#)

## Buttermilk Highwalls, AML Site 1820 - Indiana

### Interior States Regional Award Winner

Two large and dangerous highwalls located near a public road posed a danger to anyone driving, hiking, hunting or fishing near the Sugar Ridge Fish and Wildlife Area. Indiana's AML program worked with one of its sister agencies in the Indiana DNR to address the hazards. This collaborative effort eliminated 1,615 linear feet of dangerous highwalls while mitigating future acid mine drainage (AMD) problems, improving wetland areas, and providing better wildlife habitat, all of which improved recreational opportunities at the site.



[Watch a video about the Buttermilk Highwalls](#)

[\*\*Indiana Department of Natural Resources\*\*](#)  
[\*\*Abandoned Mine Land Program\*\*](#)

## The Carrick Mine AML Project - North Dakota

### Western States and Tribes Regional Award Winner

A 20-acre abandoned mine site located near two popular recreation areas contained dangerous highwalls and a large, water-filled pit. The site not only posed a hazard to the public, but also raised liability concerns for private landowners who used the property as horse pasture and a hunting area. North Dakota's AML program addressed these issues by eliminating approximately 1,300 feet of dangerous highwalls, creating a pond that recharges fresh water, and preserving a prehistoric, petrified tree stump, estimated to be between 55 and 60 million years old.



[Watch a video about the Carrick Mine Project](#)



[North Dakota Public Service Commission](#)  
[Abandoned Mine Lands](#)

## Ruffner Mountain Portals AML Project - Alabama

### Small Project Award Winner

Open mine portals in a nature preserve adjacent to several popular hiking trails posed a danger not only to the public, but also to the over 600 Tricolor bats that called the portals home. When a bat study confirmed the presence of White-nose syndrome within the bat population, the urgency to limit human entry to the portals was heightened. Alabama's AML program reclaimed the site, resolving public safety concerns while minimizing the ecological impact to the local area.



[Watch a video about the Ruffner Mountain Portals Project](#)



[Alabama Department of Labor](#)  
[Abandoned Mine Land Reclamation](#)

### NEWSLETTER ARTICLE SPECIFICATIONS

Articles subject to editing. Submit an article by e-mail. Include author's name, title of article, captions for photos. Submit photos in TIF (preferred) or JPG format, and original photo size. E-mail photos as individual files, not embedded.

**Deadline for Spring Edition is April 15, 2021.**

Email articles to **Bob Scott** ([bobf.scott@ky.gov](mailto:bobf.scott@ky.gov)) or mail articles to: Bob Scott, Director  
Division of Abandoned Mine Lands  
300 Sower Blvd.  
Frankfort, KY 40601

For more information call **Bob Scott** or **Ben Enzweiler** at 502-564-2141.



## **Prognosis for AML Legislation in the 117<sup>th</sup> Congress**

As we anticipate the convening of a new Congress (the 117<sup>th</sup>) in early January, it is important to consider the status of Abandoned Mine Lands (AML) legislation based on where we left off in 2020. We know that the authority to collect the current AML fee on coal production will expire on September 30<sup>th</sup> unless it is either extended or reauthorized. There were three bills in the 116<sup>th</sup> Congress aimed at accomplishing this task, H.R. 4248 in the House and S. 1193 and S. 3971 in the Senate. H.R. 4248 was passed by the House of Representatives as part of the Moving Forward Act (H.R. 2) in July. However, no action was taken in the Senate on either of the bills.

In addition to AML fee reauthorization, bills were also introduced to release and utilize a portion of the unappropriated balance in the AML Trust Fund (in the amount of \$1.2 billion) for AML reclamation projects incorporating an economic revitalization component (H.R. 2156 and S.1232). Bills to provide Clean Water Act protections for “Good Samaritans” undertaking AML projects that address acid mine drainage were also introduced (H.R. 315 and as part of S. 3971). H.R. 2156 and H.R. 315 were passed as part of H.R. 2; no action was taken in the Senate on these bills.

In recent conversations with congressional staff of the sponsors of these bills, we anticipate that they will be re-introduced early in the 117<sup>th</sup> Congress. There may be some limited fine tuning of the bills, but the general design and components are expected to be the same. If hearings are required, we expect them to occur early on in the House (likely the March – May timeframe), but later in the Senate (June-July), especially if that body flips from Republican control to Democratic. In terms of the September 30<sup>th</sup> expiration date for fee collection, if a reauthorization bill is not adopted by Congress by then, we would anticipate discussions around a short-term extension of fee collection authority (likely for one year) as part of the appropriations process, which will take place in September.

In terms of next steps for IMCC and NAAML, we will need to be in touch with congressional staff (especially bill sponsors) in January to confirm plans for the legislation and strategies for assuring its passage. As part of this process, we will likely be reviewing draft bills and, once introduced, assisting with identifying and seeking co-sponsors. If there are hearings, we will seek to provide input on potential witnesses and to hopefully provide at least one witness from

IMCC/NAAML P as we have in the past. IMCC will assist with preparing testimony, both written and oral, as well as witness preparation.

As the bills progress through Congress, we will want to monitor them closely and be prepared to provide information and data in support of them, as requested. We may also be called upon to be a part of negotiations to seek a legislative solution that responds to the needs of all affected parties, similar to the compromise that resulted in the 2006 amendments to Title IV of SMCRA. We will have a better sense for any such negotiations as we draw closer to the September 30<sup>th</sup> date.

In many ways, the hard work on AML reauthorization legislation was done during the 116<sup>th</sup> Congress with the drafting of H.R. 4248, arranging for co-sponsors, and the holding of a legislative hearing in November of 2019 (at which NAAML P, IMCC and WY testified). We left the legislation in a good place and, as a result, anticipate that it will move expeditiously in 2021. One big unknown is where the Biden Administration may come down on the legislation. For that reason, we submitted two transition team reports to the new Administration – one from IMCC and one from NAAML P – both of which address the importance and time-sensitive nature of AML reauthorization. We will want to discuss the matter with the key players in the Interior Department once they are appointed in an effort to seek their strong support for the legislation.

It may also be increasingly important for the states and tribes to engage with their respective legislative delegations as we seek to win the day for reauthorization. IMCC has often encouraged congressional staff to reach out to those who run the AML programs within their respective states and tribes to gather first-hand information and perspectives about the importance and value of the programs. And as we have noted in the past, gubernatorial involvement may become necessary as we approach the end date and potential negotiations.

IMCC will continue to work closely with the NAAML P legislative committees and the IMCC AML Committee as the various bills proceed through Congress.



December 7, 2020

Kevin Washburn  
Dean  
University of Iowa, College of Law  
U.S. Department of the Interior  
President-Elect Biden Transition Office

Dear Mr. Washburn:

As state government agencies with responsibility for the remediation of abandoned mine lands (AML) and their attendant health, safety, and environmental impacts within our respective states and tribes, we hereby transmit the attached report that addresses several critical issues facing the Biden/Harris Administration.

The National Association of Abandoned Mine Land Programs (NAAML) represents 32 states and tribes, 28 of which implement federally approved abandoned mine land reclamation programs authorized under Title IV of the Surface Mining Control and Reclamation Act (SMCRA).<sup>1</sup> Under the state-lead, cooperative federalism approach utilized under SMCRA, the states and tribes represented by NAAML exercise primary responsibility for identification, monitoring, and restoration of mined lands left abandoned or inadequately reclaimed prior to the advent of modern mining regulations. Through NAAML, the state and tribal AML programs are united in achieving the goals and objectives as set forth by Congress when SMCRA was first enacted – including protecting public health and safety, addressing environment impacts, providing employment, and enhancing the economies of communities impacted by past coal and noncoal mining – particularly those disadvantaged by poverty and under-representation.

This important work is made possible by the AML Trust Fund, which receives revenue through a fee on current coal production. This funding has enabled the states and tribes to pursue their respective AML programs and has resulted in hundreds of thousands of acres of abandoned mine lands being reclaimed; thousands of mine openings being closed; thousands of miles of polluted streams being restored; and thousands of jobs and opportunities for future investment being created. The AML program has proven its extensive benefits over its now 40-year history. As we look toward the future,

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<sup>1</sup> This report was developed for and in consultation with NAAML by the Interstate Mining Compact Commission (IMCC), with whom NAAML contracts for legislative and regulatory affairs counsel. IMCC is a multi-state organization representing the natural resource and environmental protection interests of its member states, many of which are also members of NAAML. IMCC and NAAML work hand-in-hand in pursuing AML program policy priorities. IMCC endorses and supports NAAML's report to the transition team.

the states and tribes remain committed to addressing the remaining impacts of both coal and non-coal abandoned mines and improving the health and safety, environment, and economy of communities throughout every region of the country.

The AML program is a vital component of the balance between natural resource production and environmental protection established by Congress through the passage of SMCRA. As the Biden/Harris Administration begins, the AML program is approaching a significant crossroads. It is our intention in this report to address the various issues that are ripe for resolution in the new Administration and that will set us on the course to continued improvements and success. These issues will be discussed in further detail in the body of this report, but paramount among them are the following:

- Reauthorization of SMCRA Title IV fee collection authority should be considered a top priority given the current expiration date of September 30, 2021
- Federal support for state abandoned mine lands (AML) programs must continue unabated as we strive to clean up old mines and address AML emergencies
- Federal rulemakings or initiatives that directly impact state program implementation should provide for meaningful state involvement, fully consider and address state input and recommendations, and avoid adverse fiscal impacts on the states.

In the final analysis, we believe that the key to progress on many of the issues is open communication and effective cooperation between the states, tribes and federal government. In this regard, we would welcome an opportunity to meet soon with appropriate members of the new Administration's transition team to discuss matters of mutual interest and concern and to further elaborate on the issues addressed in our report. In the meantime, we would be happy to provide you with any additional materials that would be helpful as you move forward in this important area of state-tribal-federal relations. A listing of state and tribal contact persons can be found at [www.naamlp.net/about.php#contacts](http://www.naamlp.net/about.php#contacts). Please do not hesitate to contact us for any information you may need or to answer any questions you may have. We trust that we can work together in accomplishing our shared objectives.

Sincerely,



Susan Kozak  
President  
National Association of  
Abandoned Mine Land Programs  
[Susan.kozak@iowaagriculture.gov](mailto:Susan.kozak@iowaagriculture.gov)  
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cc. Thomas L. Clarke  
Executive Director, IMCC

# **Transition Team Report**

## **Abandoned Mine Land Reclamation – State/Tribal Title IV Programs**

### ***Introduction and Background***

Throughout our country's history, the mining of coal, precious metals, and other important industrial minerals has been integral to its development. Over the past century, we have seen significant advancements in mining and reclamation technology as well as the passage of national environmental laws, such as the Surface Mining Control and Reclamation Act (SMCRA) of 1977, which regulate mining and its impacts.

However, the remnants of mining conducted (and often abandoned) prior to the enactment of national environmental laws like SMCRA endure and have significant adverse effects on the health, safety, environment, and economies of communities impacted by these historic, abandoned mine lands. Safety hazards associated with abandoned mines account for many deaths and/or injuries each year, and are located on federal, state, tribal and private lands. These health and safety hazards include, but are not limited to, dangerous highwalls, open mine portals, vertical mine shafts, dangerous spoil and coal refuse piles, underground mine fires, mine subsidence, and polluted drinking water wells and supplies. The impacts of abandoned mines include, surface and ground water contamination, erosion, sink holes, sedimentation, chemical release, and acid mine drainage.

The states and tribes have taken the lead in fashioning and implementing effective environmental programs under SMCRA, which includes the cleanup of harmful abandoned mine lands. The progress made by the states and tribes in reclaiming their respective inventories of AML sites since the enactment of SMCRA has been substantial, but maintaining consistent, adequate funding and the state-lead approach anticipated by SMCRA has been a perennial struggle.

### ***Current and Future Challenges***

The states and tribes were greatly encouraged by the passage of the 2006 Amendments to SMCRA, which culminated over 10 years of work by the states, tribes and others to reauthorize this vital program. The hard-fought compromise that enabled the 2006 amendments commenced a decade of enhanced funding for the AML program, resulting in significant progress in the proceeding years.

Over the past 14 years, several AML legislative initiatives have emerged or re-manifested, some of which will be discussed here. The states are increasingly concerned with a number of developing circumstances affecting AML work, both practical and legislative, which threaten the once seemingly assured future of this most successful program. However, with the continuation of funding and careful consideration in shaping the program, new life can be infused into the program and its promise for the future can be maintained.

The need for a renewed appreciation of the unique position, role, and contribution of state and tribal AML programs is inherent to all of the issues discussed below. The state-lead, cooperative federalism approach employed by SMCRA was adopted by Congress in recognition of the greatly varying environmental and economic circumstances throughout the country. States and tribes were determined to be in the best position to administer their programs due to their superior, first-hand knowledge of the dangerous abandoned mine features and polluted streams within their respective borders. As a result, the passion and care with which the state and tribal AML programs pursue their work simply cannot be matched. In an effort to keep the AML program on the path to success, NAAML P requests that the Biden/Harris Administration re-emphasize the state and tribal lead for the AML program, as originally envisioned by Congress.

Additional current and future challenges for the AML program include: reauthorization of fee collection authority (which is set to expire on September 30, 2021); the continuation of adequate, consistent funding for all state and tribal AML programs, including AML emergency projects; the perpetual operation and maintenance costs associated with acid mine drainage treatment; assuring that high priority AML work continues while providing flexibility to the states and tribes in determining their respective AML project priorities; maintaining a well-structured and functioning inventory database for tracking AML accomplishments and remaining problems; maintaining the balance of needs and interests among AML programs across the country; providing funding for hardrock AML work; and exempting AML funding from sequestration reductions.

### ***Reauthorization of the AML Fee***

Reauthorization of SMCRA Title IV fee collection authority is the preeminent AML legislative priority for NAAML P ([see attached policy resolution](#)). The AML fee, on which both the federal and state/tribal AML programs rely for the vast majority of funding, is set to expire on September 30, 2021. Without this source of funding, the states and tribes will be unable to continue operating their programs for long.

Legislative deliberations of this scale take a significant amount of time (the process leading up to the 2006 SMCRA amendments took more than ten years to complete). Historically, reauthorization has been the most appropriate time to consider other potential changes to the program's design and implementation. Preparing for reauthorization therefore means assessing the current state of AML work nationwide, including, among other things, how and where AML funds are being generated, how they are most fairly and sensibly distributed, how they are used, and how they should best be used in the future. NAAML P is prepared to contribute to the reauthorization discussion and inform public debate, and looks forward to working closely with the new Administration on the matter. In this regard, we have been active during the 116<sup>th</sup> Congress in supporting and testifying in support of two important AML bills: H.R. 4248, regarding reauthorization and H.R. 315, regarding Good Samaritan protections for coal AML projects. Both bills passed the House of Representatives in July as part of H.R. 2, the Moving Forward Act. [A copy of our testimony is attached.](#)

As the AML community prepares for reauthorization, it is important to note that other legislative initiatives currently underway, such as H.R. 2156, the Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More (RECLAIM) Act, may have a significant impact on the AML landscape and in turn on reauthorization. Regardless of what new approaches for AML programs might be considered and what other avenues of AML work might become available, it must be kept in mind that losing the AML fee will be a massive, perhaps insurmountable, blow to the progress of AML work. Any new legislative initiatives should therefore be directly linked with reauthorization, and any that represent a threat to reauthorization should be met with utmost scrutiny.

In essence, to extend the AML fee is to extend the AML program itself. As expiration of Title IV fee collection authority approaches, there are many issues yet to be resolved, but one thing at least is clear: while the AML programs have made great progress, the remaining AML work far outweighs the resources available. NAAMLPLP estimates that to complete reclamation of all known unreclaimed AML sites and mine-drainage discharges will conservatively require more than \$12 billion for construction costs alone, \$9.5 billion more than is currently residing in the AML fund. Taking into consideration the additional costs to plan and design these projects, the funding shortfall is much wider. If the AML programs are to complete their work, reauthorization of the AML fee will be necessary.

### ***AML Grant Funding***

It is a well-accepted fact that coal production is declining and will continue to decline for the foreseeable future. The most recent Energy Information Administration (EIA) report on projections for coal production predicts that coal production will fall steadily through 2030 in almost every possible scenario. With many power plants closing or switching to natural gas, the decline in coal production has begun more quickly and at a steeper rate than many predicted. The recent Short-Term Energy Outlook released by EIA on November 10, 2020 estimates coal production will be reduced by 26% in 2020 as compared to 2019 production.

As coal production falls, receipts from the AML fee leveraged on each ton of coal mined falls and AML grants to the states and tribes therefore fall in turn. OSMRE reports that AML fee receipts have fallen by 10% compared to the previous fiscal year. Since this trend is fully expected to continue, a looming funding crisis for the AML program is beginning to become apparent.

Even if the AML program is reauthorized in 2021 and other modifications to the program do not have the effect of reducing moneys available for AML reclamation, we can expect significantly reduced AML funding simply due to the decline in coal production. It will be incumbent on AML policy makers throughout the country to realign the future of the AML program with the new reality of coal's lesser share in energy production. Finding ways to compensate for declines in AML funding and maintain adequate, consistent funding into the future will require innovative thinking and effective cooperation. Most of all, continued

success will require recognition of the AML program's enduring importance and the substantial amount of much-needed AML work that remains.

It should be noted that rural communities in historic coal mining regions are particularly reliant on funding from the AML program. The coal mined in these regions over the past two hundred years fueled the development of our country. Now, the coal mining communities who supported the nation through industrialization and two world wars are left with the debilitating health and economic impacts of mining conducted prior to the advent of modern environmental regulation. As current coal production continues to decline, particularly in the Appalachian region, the circumstances in these communities worsen. If the health, safety, environment, and livelihoods of these most deserving communities are to be protected and restored, continued AML funding is imperative. ([See attached Congressional testimony re OSMRE's FY 2021 Budget.](#))

### ***AML Reclamation Economic Development Pilot Program (AML Pilot)***

Beginning with the Consolidated Appropriations Act for Fiscal Year 2016 (Public Law 114-113, December 18, 2015), Congress authorized the expenditure of \$90 million of US Treasury Funds (\$30 million each) to the three Appalachian state AML Programs which have the highest amount of unfunded coal-related problems classified as Priority 1 and 2 AML sites in e-AMLIS. These states are Kentucky, Pennsylvania and West Virginia. The intent of the program is to explore and implement strategies to return legacy coal sites to productive uses in conjunction with economic and community development goals. The FY 2017 Consolidated Appropriations Act (Public Law 115-31) provided \$105 million of US Treasury Funds to the six Appalachian states with the highest amount of unfunded coal-related problems. The three states with the highest amount of unfunded coal-related problems each received \$25 million (Kentucky, Pennsylvania and West Virginia) and the three Appalachian states with the subsequent highest amount of unfunded coal-related problems each received \$10 million (Alabama, Ohio, and Virginia). The FY 2018 Consolidated Appropriations Act (Public Law 115-141) provided \$115 million of US Treasury Funds to the same six Appalachian states but added the three tribes with AML Programs (Crow, Hopi and Navajo), which each received \$3.33 million. In Fiscal Years 2019 and 2020, the same distributions were approved by Congress, for a total of \$540 million to date.

Working in cooperation with local economic development authorities, citizen organizations and local watershed and environmental groups, the AML Pilot Program states and tribes have worked diligently to identify and develop pilot projects that will meet the goals and objectives of Congress for the program. The states and tribes have worked closely with OSMRE to pave the way for expedited approval of these projects based on guidelines developed by OSMRE. In this regard, the states and tribes have also engaged with OSMRE to improve program performance by identifying and resolving several concerns with respect to project eligibility, the vetting process, NEPA review, compliance with 2 CFR Part 200 concerning contractor v. subrecipient determinations, and grant administration and reporting requirements. The latter initiative is an ongoing process that will require additional focus throughout 2021.



## ***Hardrock AML***

A national hardrock<sup>2</sup> AML program is also a NAAML P priority, in particular for western states, which are disproportionately affected by a significant hardrock AML presence. Currently, hardrock AML work on federal lands is pursued by the Bureau of Land Management (BLM), the National Park Service, the U.S. Forest Service (USFS), and the U.S. Army Corps of Engineers (COE), often in partnership with state and tribal AML agencies. Several western states and tribes also operate their own hardrock AML programs. In some cases, states and tribes undertake hardrock AML projects through provisions under SMCRA which allows the limited use of state Title IV funds for these projects.

While progress is being made, the resources currently available for the reclamation of hardrock AML sites are desperately insufficient and prohibitively inconsistent.<sup>3</sup> If truly meaningful progress is to be made in remediating the massive amount of legacy hardrock AML hazards and environmental impairments that persist throughout the country, a robust, consistent source of funding for the exclusive purpose of hardrock AML work must be brought to bear.

There is clear agreement among the states and tribes that a dedicated funding mechanism and an equitable, effective funding distribution formula will be critical to empowering hardrock AML efforts. The states and tribes recommend a system analogous to the AML program under SMCRA for coal, wherein a reasonably designed fee would apply to active hardrock mining operations, be collected by the U.S. Department of the Interior (DOI) and distributed under a formula similar to SMCRA Title IV AML fees, and utilize a cooperative federalism approach with states acting as primary implementers and DOI serving in an oversight role. The states believe that, if appropriately designed, this system will bring about optimal results for a national hardrock AML program.

## ***Liability Protection for AML Good Samaritans***

Due to the sheer magnitude of the hardrock AML problem, as well as difficulties in enacting national hardrock AML legislation, we have considered a variety of promising alternative methods to facilitate AML work over the years, one of which being liability protections for “Good Samaritan” mine clean ups. The essential idea of Good Samaritan legislation is to provide protection from certain unnecessary and prohibitive liabilities, primarily under the Clean Water Act and the Resource Conservation and Recovery Act, to groups that voluntarily undertake the remediation of waters impacted by polluted mine drainage.

The Clean Water Act is intentionally very strict in the restrictions placed on and the penalties potentially assessed to those who impact our Nation’s water resources. In so doing, it has become a cornerstone in the effort to clean up our nation’s waterways and safeguard the health of our citizens and their environment, in particular from large-scale, formerly

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<sup>2</sup> These minerals include gold, silver, lead, copper, molybdenum, uranium, and industrial minerals.

<sup>3</sup> A recent study by the General Accountability Office found that current AML funding from federal sources is about \$287 million annually but that significantly more is needed.

unregulated polluters. However, due to certain aspects of the Clean Water Act's design, it now ironically stands as a major obstacle to the treatment of polluted discharges from abandoned mine sites. States, municipalities, and citizen/watershed groups who had no involvement in the creation of the pollution are eager to take on acid mine drainage (AMD) water treatment projects but are deterred from doing so due to the potential for being exposed to daunting liabilities in the course of their work.

Liability under the Clean Water Act is joint and several, meaning that simply by affecting a mine-discharge polluted water source, Good Samaritan groups become liable for the entire cost to repair that water source. If the actions taken by the Good Samaritan do not improve water quality to 100% of the CWA standards, then Good Samaritans become exposed to significant liability under the CWA even if total restoration of the water source was technically and economically infeasible. It should also be noted that many successful watershed restoration projects have been undertaken where polluted discharges, while not treated to full CWA compliance, resulted in significant aquatic improvement of receiving streams.

Good Samaritan protections are often discussed in the context of hardrock AML work, mainly due to the lack of a national hardrock AML program similar to that for coal AML.<sup>4</sup> By shielding eligible groups from unnecessary and prohibitive liabilities, we can tap the immense passion and the significant financial resources residing in our Nation's local watershed groups, philanthropic foundations, conservancies, and other grass roots organizations. These resources must be brought to bear on the colossal backlog of mine-drainage impaired waterways throughout the country, which is equally important in remedying the remnants of both legacy coal and hardrock mining. A potential legislative model for addressing Good Samaritan protections can be found in H.R. 315, the Community Reclamation Partnerships Act, which passed the House of Representatives in July as part of H.R. 2. This same approach is also contained in a bill (S. 3971) introduced by Senators Barrasso and Enzi of Wyoming. NAAMLPP strongly endorses the approach and has advocated for its adoption.

Pennsylvania's Good Samaritan program, which provides liability protection under state law, has been a great success and provides proof of the Good Samaritan concept. Pennsylvanians have undertaken 76 Good Samaritan projects to date, participants in which have included local governments, individuals, watershed associations, corporations, municipal authorities, and conservancies. State-level liability protections have enabled these 76 projects to occur, but still more projects could have been pursued if not for the specter of liability under federal law, which has a chilling effect on watershed cleanup efforts throughout the country.

The states look forward to working with the Administration in developing and furthering proposals to enact this much needed and immensely promising policy initiative. States have the demonstrated track record and first-hand experience to inform the program's

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<sup>4</sup> It should be noted that Good Samaritan protections are in fact of great potential benefit to coal AML efforts as well, which is what served as the impetus for H.R. 315.

design so that it has the optimal intended effect without detracting from exemplary environmental protection.

### ***Liability Protection for State and Tribal AML Programs***

The extension of similar liability protections to state and tribal AML programs is also a high priority for NAAML. While the focus of Good Samaritan legislation is generally on protections for third party watershed clean ups, the state and tribal AML programs are in fact faced with similar issues regarding significant undue liability in operating treatment systems in AMD-impaired watersheds. For example, the AML programs often utilize passive treatment systems that are not capable of achieving the CWA requirement of eliminating the discharge of all pollutants (zero discharge) into the receiving stream or water body, though they do improve water quality significantly and allow for biological restoration of the streams. Funding limitations have led many AML programs to adopt a strategy for watershed cleanup that attempts to maximize the number of discharges that receive treatment, albeit at levels that do not strictly meet water quality-based effluent requirements. The aggregate effect of these treatment systems produces drastic improvements in overall health of watersheds at a comparatively low cost. The mine drainage in these watersheds is being treated, pollution is substantially reduced, and noticeable water quality improvements are being made, but in so doing, the state AML programs expose themselves to liability. This situation must be rectified, and Good Samaritan legislation is a sensible place to clarify that certain NPDES requirements, i.e. zero discharge standards, do not apply to projects conducted by state and tribal AML programs

### ***Sequestration of AML Grant Funding***

Of increasing concern to the states and tribes is the application of sequestration reductions to AML grants distributed under SMCRA Title IV. Since 2013, Title IV AML appropriations have been subject to sequestration under the Balanced Budget Emergency Deficit Control Act (BBEDCA). This means that each year, OSMRE must apply an across-the-board reduction, which has been around 7%, of the grant amounts appropriated to the states and tribes. In 2020, a sequestration reduction of 5.9% translated to \$10.7 million in AML grants withheld for a total of approximately \$135 million since 2013. According to OSMRE grant specialists, the specific amounts that have been withheld from each state or tribe are being held in the federal AML Trust Fund and being tracked so that, once OSMRE has authority to distribute those funds, they can be returned to the state and tribal AML programs for which they were originally intended. Currently, according to OSMRE, there is no authority to distribute those funds unless authorized by Congress.

The Balanced Budget Act of 2015 extended sequestration through 2025, meaning that unless steps are taken to exempt the AML fund from these reductions, a very significant amount of money will be prevented from benefitting the AML-impacted communities for whom it is intended. NAAML has taken the position that AML funding should be exempted from sequestration reductions. The primary argument is that because the AML fee is paid by

the coal mining industry for the exclusive purpose of AML remediation, withholding that funding does not actually benefit federal budget deficit reduction. This means that the only practical effect of sequestered AML funds is to delay desperately needed AML work. NAAMLPLP recommends that the new Administration consider the exemption of the AML fund from sequestration a priority as they consider legislative initiatives related to AML, as the benefits are patent, and every dollar of AML funding is needed.

### ***AML Grant Funding for Minimum Program States***

NAAMLPLP strongly recommends that the new Administration increase annual funding available to minimum program states. SMCRA Title IV designates any state for which the annual AML grant distribution is less than \$3 million as a “Minimum Program”. These states often have very significant AML inventories, but due to low levels of current coal production and comparatively low levels in the years prior to 1977, (which respectively determine a program’s “state share” and “historic coal share”) these states do not receive adequate funding under the current grant distribution formula. SMCRA Title IV requires that OSMRE fund out of its discretionary share the amount necessary to bring any minimum program states’ annual distribution to at least \$3 million. However, the \$3 million mandatory distribution is markedly deficient as compared to the massive AML inventories and costs remaining in many of these minimum program states, especially considering the unknown and sudden cost of AML emergencies, which can be significant. At the current rate, some Minimum Programs have AML inventories that would literally take hundreds of years to reclaim completely. As it is, these states often must save several years’ worth of grant funding simply to fund one major project, which severely compromises their ability to maintain well-staffed, securely-funded AML programs, and significantly stalls progress with reducing their inventories. Therefore, NAAMLPLP strongly recommends an increase in minimum program funding to a mandatory annual grant amount of at least \$5 million.

### ***AML Emergency Program Funding***

One of the vital roles of the AML program is to address AML emergencies. These sudden, generally unforeseen and debilitating hazards (such as the collapse of legacy underground mine tunnels, known as “subsidence” events) inevitably occur each year in every region of the country. Nationally, hundreds of AML emergencies occur each year and, due to the tens of thousands of abandoned mines, will continue to occur indefinitely. Prior to 2010, emergency funding was provided from OSMRE’s discretionary share and allowed states to move quickly to address these dangers and safeguard the coalfield citizens whose lives and property were threatened, without detracting from states’ and tribes’ regular, ongoing AML work.

In 2010, OSMRE discontinued funding for AML emergencies and notified the states that going forward, emergencies must be funded from regular state title IV grants. This change has proved problematic for a number of reasons, the most notable of which being that the diversion of regular state AML grant monies to the emergency program impedes the

progress the states are now making to address AML problems that have been inventoried and awaiting funding for years. AML progress in minimum program states is particularly vulnerable to AML emergencies, as a single significant emergency event could result in complete depletion of the program's financial resources when they are forced to utilize the entirety of their regular AML grant funding, which is already extremely limited.

For these reasons, we urge the Biden/Harris Administration and Congress to direct OSMRE to reverse the harmful change to AML emergency funding and reinstitute OSMRE's responsibility to supply that funding from the discretionary share of AML fee receipts, which worked so successfully prior to 2010 and which is required in accordance with Section 410 of SMCRA.

One final thought on AML emergency funding: despite the fact that OSMRE has effectively zeroed out its AML emergency program budget, the agency has continued to receive revenues from AML fee collections to operate the program in amounts roughly equal to before the change to emergency funding was made. AML fees are statutorily mandated to be spent on AML reclamation, including the emergency program. If OSMRE desires to remain out of this part of the program, and for the states to continue funding emergencies out of their regular grant amounts, the moneys previously utilized by OSMRE for the emergency program should continue to be redirected to the states so that their programs can be reestablished to address this important area of public health and safety.

### ***AML Economic Revitalization Proposals (the RECLAIM Act)***

Proposals to enhance economic benefits stemming from AML projects, such as the Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More (RECLAIM) Act (H.R. 2156), have become prominent in AML policy discussions over the last two years. The basic idea of RECLAIM is to accelerate distribution of \$1 billion from the AML Trust Fund over the course of five years for AML projects with enhanced economic benefits. These projects would be identified and conducted in cooperation with local economic and community development expertise and focused in communities most in need of economic revitalization. The notion of accelerating payouts from the AML trust fund and, more generally, of enhancing economic benefits resulting from AML projects, have in fact been explored through a number of program proposals over the life of SMCRA, but declining economic conditions in coalfield communities, particularly those in Appalachia, have renewed interest in enacting such a proposal.<sup>5</sup>

It is important to note that AML projects produce local economic benefits and are generally conceived with assistance and input from local groups. The key difference between the traditional AML program and AML economic revitalization programs such as RECLAIM is that potential economic benefits become the primary determining factor in prioritizing and selecting projects rather than the site's relative danger to public health and safety and the environment. This has been the most significant source of anxiety regarding

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<sup>5</sup> The AML Pilot Program was designed with these concerns in mind and as a way of exploring the feasibility of a more expanded initiative.

RECLAIM, as many AML programs have expressed concern with shifting a very significant amount of limited AML dollars away from the highest priority health and safety issues, especially considering the large inventory of high-danger AML sites that remains.

In addition to potential shifts in the priority level of AML work to be accomplished, the following areas have been a cause for concern to the states and the subject of notable debate:

- Targeting and measuring economic benefits
- Responsibility for economic development
- The funding distribution formula
- The scope of site eligibility
- The oversight role of OSMRE

The key to the success of programs like RECLAIM will likely be the nationwide prevalence of and ability to identify eligible projects that are both high priority AML sites and good potential sources of economic benefit to communities in need. To the extent that a tradeoff exists between reclamation and economic benefits, policymakers must balance the goals of RECLAIM and the general goals of the AML program. In finding that balance, NAAMLPLP recommends caution in shifting priorities away from traditional AML reclamation.

Economic revitalization programs like RECLAIM hold promise; that much is clear. What is less clear, is the impact these programs will have on the long term future of the AML program. To accelerate funding from the AML fund, as RECLAIM anticipates, is in a sense, to borrow against the future. Generally speaking, to borrow against the future can be quite sensible in cases where immediate needs arise and the future can be clearly relied upon. In the present situation however, with the AML fee set to expire in 2021, and with a beleaguered coal industry from whom little appetite for reauthorization should be expected, the future of the AML program is not at all clear, much less secure. From the states' and tribes' perspectives, any major initiative like RECLAIM must be very carefully considered against the paramount need for reauthorization. States and tribes, who are primarily responsible for the successful implementation of AML programs, should be directly involved in any efforts to change SMCRA.

### ***Conclusion***

As the state AML programs and the AML community at-large consider the future of the AML program, continuing state-tribal-federal partnership and communication will remain critical to success in preparing and instituting the best possible future of the program. The AML program is quickly approaching its next significant crossroads, and its future is in peril. The need to build on and continue the great success enjoyed by the program and the hard-fought, productive compromise of interests memorialized by the 2006 amendments is paramount for the states and Tribes represented by NAAMLPLP. The AML program has a promising future if it is properly revitalized, but if not, the program's hard-won progress in

protecting and restoring our country's mining-impacted communities may cease, and much of what has already been accomplished may wither away. The states and tribes stand ready to bring our passion and decades of first-hand experience to bear in shaping the future of the AML program. Time is of the essence: we need a focused effort from the new Administration beginning immediately to ensure the AML program has a bright future and its environmental and economic benefits are preserved. Together, we can assure the continuation of this vital program and the benefits it provides across the nation.



# Resolution

## National Association of Abandoned Mine Land Programs

A Resolution Concerning Reauthorization of Fee Collection Authority under Title IV of the Surface Mining Control and Reclamation Act PL.95-87

*BE IT KNOWN THAT:*

WHEREAS, Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Abandoned Mine Land (AML) reclamation program; and

WHEREAS, The National Association of Abandoned Mine Land Programs (NAAML P) consists of 31 states and Indian tribes, each with interests in abandoned mine land remediation, including the reclamation of land and water resources adversely affected by past mining and left in an abandoned or inadequately restored condition; and

WHEREAS, pursuant to the cooperative federalism approach contained in SMCRA, 28 NAAML P member states and tribes administer AML programs approved, funded and overseen by the Office of Surface Mining Reclamation and Enforcement (OSMRE) within the U.S. Department of the Interior; and

WHEREAS, SMCRA Title IV establishes a reclamation fee on each ton of coal mined in the United States to fund abandoned mine land reclamation; and

WHEREAS, Congress enacted amendments to SMCRA in 2006 to address, among other things, continued collection of AML fees and funding for state and tribal programs to address existing and future AML reclamation ; and

WHEREAS, The reclamation fee authorized under SMCRA Title IV will expire by operation of law on September 30, 2021; and

WHEREAS, Since the enactment of SMCRA, 6, 151,789 AML hazards (totaling some \$4 billion in construction costs) have been abated by the state and tribal AML programs; and

WHEREAS, Presently, there are 14,384,171 AML hazards (totally some \$9 billion) that still need to be remediated; and

WHEREAS, Without the funding generated by the Title IV reclamation fee, these remaining AML hazards will not be addressed , prolonging indefinitely the subjection of our citizens and environment to the hazards associated with AMLs.





**WHEREAS,** To complete reclamation of the remaining AML hazards, reauthorization of SMCRA Title IV fee collection authority is a necessity.

**THEREFORE BE IT RESOLVED,** that the National Association of Abandoned Mine Land Programs:

Strongly endorses reauthorization of Title IV reclamation fee collection authority to continue ongoing mandatory grants to states and tribes; and

Urges Congress to enact legislation reauthorizing Title IV fee collection authority for a period of fifteen years beyond September 2021; and

Strongly supports the continuation of states and tribes as the sole delivery mechanism for AML funds given their demonstrated 35-year history of effective and efficient program implementation; and

Advocates the consideration of other appropriate, related amendments to Title IV of SMCRA based on our ten years of experience since enactment of the 2006 amendments (see related attachment); and

Will cooperate with OSMRE and interested and affected stakeholders to assess these additional potential amendments

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Chuck Williams, President  
National Association of Abandoned Mine Land  
Programs



## Proposed Legislative Amendments to Title IV of SMCRA

### Existing Provisions Requiring Amendment:

- Extend fee collection to 2036
- Increase Mandatory Minimum Program funding to at least

### \$5 million New Provisions:

- Fund all AML emergency programs as a mandatory expenditure from the Secretary's discretionary share under 402(g)(3)
- Allow all State and Tribal AML programs to utilize up to 30% of their entire, respective grant amounts for Acid Mine Drainage (AMO) set-aside
- Exempt AML funding from sequestration reductions under the Budget Control Act of 2011 or other deficit reduction laws and authorize the release of previously sequestered funding to the respective states and tribes
- Exempt AML reclamation projects from jurisdiction under the Mine Safety and Health Act of 1977
- Exempt state and tribal AML projects from NPDES permitting requirements under the Clean Water Act
- Any Treasury payments pursuant to section 402(h) required to shore up the U MWA pension plans that would cause the \$490 million cap to be exceeded shall not reduce treasury payments to certified states and tribes notwithstanding the pro rata reduction provision in section 402(h)(3)(B)

### Existing Provisions to Maintain Without Amendment:

- AML grant funding must remain an off-budget, mandatory appropriation
- Interest from the AML Fund shall continue to be transferred to the UMWA Pension Plans, but Principal from the AML Fund should remain dedicated exclusively to AML work
- Use of AML funds as local match for other federal programs (e.g. CWA 319 grants) shall be maintained
- AML Fee structure and priority ranking criteria shall remain unchanged
- Funding for Certified states and Tribes should be maintained

**Statement of John Stefanko, Deputy Secretary of the Office of Active and Abandoned Mine Operations within the Pennsylvania Department of Environmental Protection on behalf of the Interstate Mining Compact Commission (IMCC) and National Association of Abandoned Mine Land Programs (NAAMLPL) Re. a Legislative Hearing on H.R. 4248, the “Surface Mining Control and Reclamation Act Amendments of 2019”, before the House Subcommittee on Energy and Mineral Resources – November 14, 2019**

**Introduction**

Good Morning Mr. Chairman and Members of the Committee. My name is John Stefanko and I serve as Deputy Secretary of the Office of Active and Abandoned Mine Operations within the Pennsylvania Department of Environmental Protection. I am appearing today on behalf of the Interstate Mining Compact Commission (IMCC) and the National Association of Abandoned Mine Land Programs (NAAMLPL).

IMCC and NAAMLPL are multi-state governmental organizations that represent the natural resource and environmental protection interests of their 30 member states (and in the case of NAAMLPL, three Indian Tribes). As the state and tribal agencies with primary responsibility for implementing the Surface Mining Control and Reclamation Act (SMCRA) Title IV Abandoned Mine Land (AML) Program within their respective borders, we appreciate the opportunity to appear before the Subcommittee in strong support of H.R. 4248, the Surface Mining Control and Reclamation Act Amendments of 2019.

The timing of the introduction and consideration of H.R. 4248 is propitious. As we noted in testimony presented before this Subcommittee at a hearing on March 28<sup>th</sup>, the SMCRA AML Program approaches a crossroads. The fee on which the program relies is set to expire in 2021. And yet much work remains to be done to protect those whose health and safety are threatened by the legacy of past mining, to restore the environment including mine drainage impaired streams, and create opportunities for economic revitalization in coal country. H.R. 4248 will ensure that this critical work continues by extending fee collection authority for an additional 15 years. The bill also addresses several other important funding elements of the program, which we discuss below.

**Making Reauthorization of the AML Fee a Priority**

Reauthorization of SMCRA Title IV fee collection authority is the top AML legislative priority for IMCC and NAAMLPL. (See attached resolutions.) Without this source of funding, the AML programs will be unable to continue their vital work including addressing the 250-300 AML emergencies which occur across the nations coal fields each year. In essence, to extend the AML fee is to extend the AML program itself. As expiration of Title IV fee collection authority approaches, one thing is abundantly clear: the AML programs have made great progress, but our work is not done; and the remaining work far exceeds available resources.

Based on expected AML fee collections between now and the end of 2021, added to the amounts currently remaining in the AML Fund, the Office of Surface Mining Reclamation and Enforcement (OSMRE) projects that approximately \$2.74 billion<sup>1</sup> in AML grants will be distributed to the states and tribes in total over the remaining life of the program. That amount represents only about one-quarter of what is needed as compared to the current OSMRE estimate of roughly \$10.6 billion in construction costs for remaining AML work. This means that without reauthorization of the AML fee, nearly \$8 billion in construction costs currently listed in the AML inventory will remain. And taking into consideration the additional non-construction costs necessary to plan and design these projects and the currently unaccounted for impact of annual inflation, the funding shortfall is much wider. Further information regarding the AML inventory is discussed below.

While the AML fee's expiration in 2021 is still several months away, legislative deliberations of this scale take a significant amount of time; the process leading up to the final 2006 SMCRA amendments took more than ten years to complete. It is for this reason that we greatly appreciate the leadership of Rep. Cartwright and Rep. Thompson in co-sponsoring H.R. 4248 and the Subcommittee's consideration of the bill. It is our hope that the bill will be approved during the 116<sup>th</sup> Congress, which will pave the way for any regulatory or program adjustments that may be required prior to the September 30, 2021 expiration date.

### **Specific Provisions in H.R. 4248**

There are several key provisions in H.R. 4248 that we believe are critical elements of reauthorization.

- Section 2 – The Abandoned Mine Land Reclamation Fund – would adjust how the unappropriated balance in the AML Trust Fund (which currently stands at \$2.306 billion<sup>2</sup>) would be drawn down following the new expiration date for fee collection authority in the bill (September 30, 2036). Current language would dispense the remaining state/tribal share moneys in the Fund at a constant rate starting in FY 2023, which is meant to provide some level of continued funding in the event the fee is not reauthorized. Section 2 would provide a similar protocol for how any unappropriated balance is handled following expiration of fee collection authority in 2036.
- Section 3 – Emergency Powers – would provide for the reimbursement of states and tribes for moneys they spend on emergency projects, which represents a return to the pre-2010 system for handling emergency funding when OSMRE paid for these projects. This is necessary so that states and tribes can continue to focus their annual AML grant funding on priority 1 – 3 projects within their borders. Without this reimbursement mechanism, entire annual AML grants in

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<sup>1</sup> “Abandoned Mine Land (AML) Grant Funding Projections 2018-2032”

<sup>2</sup> The unappropriated balance shown is as of 11/30/2018 as reported in OSMRE's 2019 AML Grant Distribution posted on OSMRE's website at <https://www.osmre.gov/resources/grants/docs/FY19GrantDistFINAL.pdf>

some states could be expended on a single AML emergency project, thereby delaying work on other, critical AML projects. This is particularly true for minimum program states. As part of this reimbursement protocol, states and tribes would submit an AML Emergency Program for approval by the Secretary as part of the already approved state/tribal reclamation plan under Section 405 of SMCRA.

- Section 4 – Reclamation Fee – would extend fee collection authority from September 30, 2021 to September 30, 2036. We believe this 15-year extension is the minimum number of years required to address the inventory of remaining AML problems. This section would also increase funding for minimum program states from \$3 million to \$5 million. This is necessary for these states to address their inventory of high priority AML sites in a more expeditious fashion. The section would also authorize minimum program states to set aside 30% of their full AML grant (composed of fees generated in these states plus OSMRE’s mandated “make-up” funding) for their acid mine drainage (AMD) accounts.
- Section 5 – Exempt Programs and Activities – would exempt future payments from the AML Trust Fund from sequestration under the Balanced Budget and Emergency Deficit Control Act. It would also authorize and require OSMRE to distribute to states all funding that was withheld due to sequestration from Fiscal Years 2013 to 2018. This amount currently stands at \$150 million. Given the passage of time, we would suggest adjusting the payback year to include FY 2019 as well.

Taken together, these amendments to Title IV of SMCRA will ensure that the AML program continues to serve the vital purposes intended by Congress. At the same time that we endorse these changes, we recommend that other key provisions in Title IV remain intact, including the priority system in Section 403, the current fee structure in Section 402, the mandatory funding distributions required under Sections 401(f) and 411(h) (for both uncertified and certified states and tribes), and the inventory system in Section 403(c). Resolutions adopted by IMCC and NAAML in support of reauthorization are attached to our testimony.

### **Progress with Abandoned Mine Land Reclamation under SMCRA Title IV**

Throughout our country’s history and up until the passage of SMCRA in 1977, coal mining was not comprehensively regulated at the federal level. As a result, some coal mining operations were left inadequately reclaimed, particularly prior to modern advancements in responsible mining techniques and the adoption of robust state and federal regulatory programs. Legacy coal mining sites spanning over two hundred years of our country’s history have enduring impacts today; but because the mining occurred so long ago and the coal companies that conducted that mining are long since defunct, no known party exists with reclamation obligations for these sites under any state or federal law. Put simply: abandoned mines are everyone’s problem but no one’s responsibility.

Over the forty plus years since the passage of SMCRA, the AML fee paid by the modern coal mining industry has made a significant contribution in enabling the state and tribal AML programs to address the impacts of past mining. As data regarding completed projects reported in OSMRE's AML inventory clearly show, great strides have been made in addressing AML-related public health and safety hazards and environmental impacts. Examples of common types of AML projects include:

- Closing mine openings to prevent accidental injuries and deaths
- Extinguishing coal mine fires and coal refuse pile fires, thereby improving air quality and eliminating safety hazards
- Backfilling dangerous highwalls and returning lands to productive condition
- Stabilizing underground mines to prevent mine subsidence from further impacting homes, businesses, and community infrastructure affected by subsidence
- Restoring water quality and aquatic life to mine-drainage impacted streams, stimulating environmental health and economic opportunities
- Providing potable water supplies to coalfield residents whose individual water supplies were impacted by past mining

In the course of this work, the equivalent of over 858,900<sup>3</sup> acres have been reclaimed and restored; that's more acreage than is contained in the entirety of Yosemite National Park or nearly 19 times the footprint of Washington, D.C.

All of the states and tribes involved in the AML program, spanning from East to West, have an ongoing need for the AML program. Due to regional circumstances throughout the country and the variety of AML impacts, AML programs are adapted to serve their citizens to best meets their needs. In order to demonstrate the impacts of the AML program in different parts of the country, the state and tribal AML programs have come together, led by Wyoming and Pennsylvania, to develop a website that showcases the real and personal effect that the AML programs have on the lives of their respective citizens. The <https://ourworksnotdone.org/> website now contains information from twenty-two AML programs scattered across the east, mid-west, and western coal regions. It includes statistics from those programs on the accomplishments that have had the greatest positive and practical impacts in each state or tribe, as well as a collection of news articles, video documentaries and testimonials showing the first-hand results of AML work and what it means to their communities.

The OurWorksNotDone project helps tell the story from the perspective of citizens and communities whose lives are shaped by the presence of abandoned mines, for instance:

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<sup>3</sup> According to OSMRE's national e-AMLIS summary, as of September 30, 2018. In accordance with the Government Performance and Results Modernization Act of 2010 (GPRA), the value is reported in GPRA acres. "GPRA acres" are a measure whereby things that are not measured in true acres, such as a mine shaft or an acid mine drainage discharge, are converted to an acreage value.

- A woman whose home is repaired after facing a desperate situation as the mine beneath her home collapses, cracking the foundation;
- The former coal miner finding a new career as an AML contractor sealing abandoned historic mines after the mine for which he worked shut down;
- A group of local fishermen fighting back tears as they behold their local stream, which had been orange and lifeless as long as they could remember, now clean and full of fish.

From these stories and many others like them, it is clear what a difference the AML program is making – and all of this made possible by the state and tribal grant funding derived from the AML fee.

### **How States and Tribes Use AML Grant Funding**

According to a pie chart on AML grant funding produced by OSMRE, approximately \$5.747 billion was distributed in grants derived from the AML fee to state and tribal AML programs between FY1977 and FY 2018. Of that amount, \$3.724 billion has been spent directly on construction of AML projects, meaning that nearly \$3 has been spent on construction for every \$1 spent on other AML program activities.

Wise and efficient management of program funds requires careful planning of each AML project. AML projects are designed by engineers with the assistance of other technical personnel with special expertise to ensure that the projects achieve their intended benefit. OSMRE reports that \$1 billion has been spent by state and tribal AML programs on planning, designing, permitting and managing the construction of AML reclamation projects.<sup>4</sup> In combination with the construction dollars mentioned above, these project planning, design and management expenses represent \$4.7 billion that has been spent directly on statutorily-authorized AML projects. This equates to 79% of the funding granted to the states and tribes going directly to the reclamation of AML sites.

While the AML programs take great care in their work, the process of identifying, designing and completing projects has been well honed over time. AML programs pay careful attention to efficiency in order to ensure that their limited funding provides maximum benefit. According to OSMRE information, administrative costs for state and tribal AML programs, (which includes staffing as well as inventorying AML sites and coordinating with federal agencies) has been held to a mere 7% of total costs<sup>5</sup>. The OSMRE pie chart referenced here, along with a background information document explanation of how AML grant funding is used and managed, is available on OSMRE’s website at <https://www.osmre.gov/programs/aml.shtm>

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<sup>4</sup> In OSMRE’s budget justification documents, only figures for “on-the-ground” construction costs for high priority coal sites were included. Design costs, which are an essential element of the cost of a successful construction project, are not included in these figures.

<sup>5</sup> \$0.407 billion of the total \$5.747 billion distributed to State and Tribal AML programs

The AML programs are proud of their good stewardship of AML funding<sup>6</sup> and the enormous social benefits that have been leveraged through its efficient, effective use. The fact remains however, that the funding resources and time provided to the AML programs in SMCRA's first forty-two years do not approach the scale of the two-centuries-in-the-making coal AML problem.

### **How Much Work is Left to be Done – The AML Inventory**

While significant progress has been made since the passage of SMCRA in 1977, it is clear that our work is not done: approximately 998,000<sup>7</sup> acres of high-priority AML sites remain throughout the country. According to OSMRE's federal Abandoned Mine Land Inventory System (e-AMLIS), these sites represent \$10.6 billion in remaining construction costs. Costs to administer, plan, design, permit, inspect and monitor these construction projects would increase the total unfunded costs by an additional 25-30%.

It is widely believed that the true remaining construction costs of remaining AML work are greater than currently indicated by the AML inventory. The primary purpose of the AML inventory system is to track the location, classification, and priority level of known AML sites as well as their reclamation status, and it serves these purposes very well. The cost estimate information in the inventory is also helpful in that it provides a general picture of the construction resources required for a given site, but there are a variety of reasons that maintaining comprehensively up-to-date, accurate cost estimates in the inventory is impractical, meaning that true construction costs are typically higher than what is recorded in the AML inventory.<sup>8</sup>

Identifying and categorizing AML sites was among the first objectives for the AML program at its outset, and many of the cost estimates contained in the federal e-AMLIS inventory were developed when the sites were initially inventoried in the early to mid-1980s. With time, the scale and depth of the AML problem has become better understood. However, it is in the nature of AML's that previously unknown sites will continue to manifest (particularly those associated with abandoned underground mines) and that known sites will continue to degrade, both of which increase the number of sites and the total cost to complete remaining AML reclamation work. With advancements in technology, the collection of more complete maps and mining records, and increased awareness and identification of these sites by local residents, many additional AML hazards have been and will continue to be identified and added to the AML inventory.

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<sup>6</sup> Of the remaining \$0.52 billion of the total \$5.747 billion in state and tribal grant funding not noted as being spent on construction, design, or administration: \$0.374 billion has been spent on acid mine drainage (AMD) set-aside for the future operation and maintenance needs of water treatment systems; and \$.0242 billion is accounted for as "undelivered orders," funding that remains available for the states and tribes but has not yet been drawn from federal accounts with regard to already approved projects.

<sup>7</sup> As of September 30, 2018

<sup>8</sup> A statistically-sound analysis of potential remaining construction costs prepared by IMCC and NAAMLIP using current e-AMLIS estimated costs for unfunded high priority problem types indicates that the \$10.6 billion figure would increase to \$12.6 billion. A copy of the report is available from IMCC.



As communities in AML-impacted regions expand outward, once isolated AML sites become higher priority as the danger they pose to public health and safety increases. Additionally, as remaining unreclaimed AML sites are periodically surveyed, cost estimates will generally increase due to inflation and updated understanding of reclamation requirements. Furthermore, estimating costs for water treatment projects is especially problematic due to the long-term requirements for the operation and maintenance of treatment systems constructed by AML programs. For all of these reasons, the AML inventory must be understood as a dynamic account of the AML problem in America. Based on the AML programs' experience with the AML inventory, we estimate that the true cost of remaining AML work may be higher than what is currently indicated. Based on Pennsylvania's inventory of AML sites within our borders, we estimate that the cost of reclamation in Pennsylvania alone will be over \$5 billion.

The bottom line is that the impacts of AML are still extensive despite the progress that has been made. As a result, additional funding is required for the AML programs' ongoing effort to contend with the wide variety of AML impacts and the adverse effect they have on coalfield communities.

### **Types of AML work**

Health and safety hazards and water pollution from abandoned mines continue to be a part of life for coalfield citizens through the country. Congress intended that AML programs be equipped to contend with the full range of land and water impacts from abandoned mines, and accordingly, the AML programs are engaged in many different types of reclamation and restoration work.

The first priority for AML programs is to protect local citizens from direct threats to their health and safety. Safety hazards associated with abandoned mines account for numerous injuries and deaths each year. These sites are designated as "priority 1" or "priority 2" based on the immediacy of the danger represented by the hazard. That designation carries the requirement that AML programs focus their attention and funding on these sites first and foremost, and this system has worked well. Over three quarters of the existing AML inventory, representing over \$7.8 billion in estimated reclamation costs, is classified as priority 1 or 2.

The AML programs also engage in a significant amount of important "priority 3" work, which is generally defined to include any environmentally impacted site without a particularly high risk to public health and safety. The most prominent environmental impact of abandoned mines is by far water pollution. Hundreds of miles of streams and wetlands have been restored due to the AML programs' efforts. While these types of projects are considered to be of "lower priority" than immediate dangers to human health and safety, this is not an indication that these projects are unimportant. On the contrary, restoring the health of watersheds in the historic coalfields, some of which have been impaired as long as anyone living there can remember, is among the most impactful of

the AML programs' contributions – and of highest importance to local citizens given the environmental and economic benefits.

## **Health and Safety Hazards at Abandoned Mines**

The most common types of high priority AML health and safety projects are dangerous highwalls, mine shafts and portals, and subsidence events:

*Highwalls:* the most prominent remnant of abandoned surface mines is vertical or near vertical rock faces created as the surface is excavated. These hazards cause deaths and injuries each year, generally as a result of citizens falling from or driving over the highwall or being struck by falling debris. Reclamation of highwalls enhances economic opportunity by returning sites to a more productive condition. To date, the AML Programs have reclaimed more than 960 miles of highwall (more than the straight-line distance from Washington, DC to Miami).

*Mine shafts and portals:* left over from underground mining, these hazards dot the countryside throughout historic coal mining regions. Shafts and portals are often difficult to see and can be quite lethal, especially where there is risk of unsuspecting or overly adventurous citizens falling into deep underground chasms. Adventurous people or children entering abandoned mines via these openings can encounter a variety of potentially hazardous mine gases which can cause them to become ill or even die. Hazards associated with more than 43,978 open mine shafts and portals have been abated by the AML programs.

*Mine subsidence events:* the hidden danger that remains from the vast legacy of underground mining throughout the country. Collapse of the unsupported underground voids results in openings or depressions that form at the surface which can buckle streets and sidewalks, damage underground utilities, or damage or destroy homes and other structures built above the abandoned mine. In Pennsylvania, over 9% of the state's total land area is underlain by abandoned underground coal mines impacting 43 of the state's 67 counties. A recent GIS analysis done in Allegheny County, Pennsylvania (where the City of Pittsburgh is located) found that there were 537,668 buildings within the county boundary, of which, 229,025 buildings (42.6%) are at risk of mine subsidence due to their location over confirmed underground mining sites. In the City of Pittsburgh alone, there are 114,517 buildings within the city boundary, of which, 41,841 buildings (36.5%) are at risk of mine subsidence. To date the AML Program has reclaimed more than 9,800 acres of subsidence prone areas stabilizing many 1000s of homes, buildings and other infrastructure. These concealed hazards are often un-inventoried until a problem emerges, at which point they become either a "new" high priority site, or an "AML emergency".

## **Emergencies at Abandoned Mines**

Addressing AML emergencies is one of the AML Programs' most important functions. These suddenly occurring problems pose an extreme danger to citizens' health,

safety and general welfare. For example, these sites may include mine subsidence that damages homes, roads, utilities, or other improved property; burning coal refuse or underground mine fires; mine shafts and portals which have become accessible to the public; mine gas migration into homes; mine water blow outs and other mine drainage problems; or AML-related landslides.

For instance, a November 2018 mine subsidence event in Pennsylvania resulted in severe damage to a home, the street and underground utilities located in Belle Vernon Borough, some 50 miles south of Pittsburgh. As a result of this mine subsidence event, gas service had to be shut off to this home and several adjacent homes resulting in the owners being evacuated. The home suffered significant structural damage including the complete collapse of the covered front porch and severe damage to the home's front foundation wall. The PA AML Program acted quickly to issue an emergency contract to drill and grout the mine to stabilize the area and allow the homeowner and utility company to make repairs, allowing the owner to reoccupy their home. While homeowners can purchase mine subsidence insurance to pay for the value of the damage to their home, the insurance does not pay to stabilize the mine. Without the AML Program, and even with repairs to the home, the owners would have been faced with the continued threat of a future mine subsidence, further damaging their home and property. Fortunately, in such cases, the AML program is able to stabilize the ground, halting the immediate threat, protecting adjacent homes, and providing homeowners with some assurance that they can safely rebuild. The PA AML Program developed a short video about this project which can be viewed here:

<https://www.youtube.com/watch?v=plJPrXPQBIE&feature=youtu.be>.

The Jeanesville Mine Fire, located in Luzerne and Carbon Counties, Pennsylvania is another example of a common type of AML emergency. This underground mine fire was discovered in 2015 and threatened to burn under the villages of Jeanesville and Tresckow. These residents could have faced a similar fate to those affected by the most famous Pennsylvania mine fire in Centralia, where the entire town had to be evacuated and relocated due to the hazards associated with this still-burning underground mine fire. Through an AML emergency project, the Pennsylvania AML Program installed a large cut-off (or isolation) trench to first isolate the fire and then excavate, quench and extinguish the fire. The project began in the spring of 2016 and due to the enormity and depth of the fire, the full extinguishment took until this past summer to successfully complete, protecting all of the residences in both villages. This massive excavation and mine fire extinguishment project (encompassing over 350 acres, involving well over 3 million cubic yards of excavation and requiring 43.7 million gallons of water for quenching) will have a total cost of approximately \$10 million (which will also include a yet to be completed mitigation project for the loss of endangered bat habitat impacted by the project).

Emergencies like these are a common occurrence for communities that live nearby abandoned mines. The impact is felt especially deeply in the historic coalfields of Appalachia in the states of Pennsylvania, West Virginia, and Kentucky, each of which spends between \$4-5 million per year on AML emergencies alone. However, the problem

is not confined to these states – a recent informal survey conducted by IMCC of the Title IV AML programs indicates that approximately 250-300 emergency projects are conducted each year throughout the country, with an annual total cost of roughly \$15-20 million. The SMCRA Title IV AML Program is generally the only source of significant funding available to protect coalfield citizens when devastating events occur. The AML emergency programs, funded by the AML fees, are critical to bringing coalfield communities the security and peace of mind they deserve.

## **Impacts to Water Resources from Abandoned Mines**

Water pollution caused by abandoned mines is perhaps the costliest of the impacts coalfield communities experience. In Pennsylvania alone, there are over 5,500 documented miles of streams impaired by AMD<sup>9</sup>, representing a severe impediment not only to the environment but to intricately-related health and economic conditions. Clean water is a fundamental resource needed for human health and for the support of many kinds of economic activity. Its absence is a great hardship for coalfield residents and constrains redevelopment in coalfield communities. Despite its designation as Priority 3 in the AML inventory, AMD is very much a high priority for these impacted communities.

Streams that run orange from mine drainage are commonplace for citizens of historic coalfields. When water flowing through abandoned underground mines or runoff from abandoned coal refuse and spoil piles comes into contact with pyritic or acid-forming materials associated with coal seams and the overlying strata, it often results in the formation of iron-laden, highly acidic water known more commonly as acid mine drainage, abandoned mine drainage, or AMD. This AMD can dissolve other minerals such as aluminum and/or manganese which can further degrade the AMD discharge. AMD often finds its way into the local groundwater or flows into nearby streams and waterways. In these instances, water resources are commonly polluted to the point that they no longer support aquatic life and are unsuitable for recreation, drinking water supplies, or industrial and agricultural uses.

SMCRA Title IV provides that state and tribal AML programs may designate a certain percentage of their annual AML grants for application to these types of long-term water treatment projects.<sup>10</sup> A single mine drainage treatment system constructed by an AML program can have a very real impact for local ecosystems and communities; and the aggregate impact of many such treatment systems can bring entire watersheds back to life. For instance, the network of pollution-reducing treatment systems constructed by watershed groups and the Pennsylvania AML Program under this program has achieved great strides in restoring AMD-impacted watersheds, as well as watershed-dependent community health and livelihoods. The communities that now have clear streams that

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<sup>9</sup> 2018 Pennsylvania Integrated Water Quality Monitoring and Assessment Report

<sup>10</sup> These set-aside accounts are not accounted for by e-AMLIS until those moneys are actually spent on completion or treatment of a specific AML or AMD project.

once flowed orange with AMD are extremely grateful for the AML program and the funding provided by the coal industry.

Due to the impact AMD pollution often has on drinking water supplies, AML programs are authorized to undertake “water supply replacement projects”, which are another key source of assistance to coalfield citizens provided through the AML program. The states and tribes often utilize Title IV AML funding to provide access to water for communities and households whose water sources have been diminished, lost or polluted due to pre-SMCRA coal mining operations. In economically depressed regions of the country, AML water supply replacement projects are often the only available economically viable source of potable water, meaning that these communities are quite literally dependent on the AML program to maintain basic standards of living. Through waterline replacement projects in Pennsylvania, over 2,500 households have gained access to potable water.

With Title IV AML funding as a base, AML programs are making real progress in battling the impacts of AMD water pollution. Hundreds of miles of streams have been restored nationwide by the states and tribes through AML funding, but without the support of the AML fee, the substantial gains derived from these remediation efforts and treatment systems would be very quickly lost. Unfortunately, AMD water pollution is among the least likely environmental problems to be addressed via extra-governmental work due the difficulties in taking responsibility for the care and maintenance of the sites.<sup>11</sup> The Title IV AML programs are therefore generally a primary source of meaningful assistance for AMD water treatment, and in many states, they are the only source. The AML fee is foundational to the states’ and tribes’ mine drainage treatment efforts as well as to leveraging the efforts of third-party groups - and every source of help is needed to contend with the great challenge AMD water pollution presents.<sup>12</sup>

### **Creating Healthy Economic Conditions through AML Work**

While the AML programs’ primary mission is reclamation, their work has other far-reaching benefits, some of which are not always obvious. The AML program has become a central part of discussions around improving economic conditions in historic coalfields, and for good reason. The degradation of public health and safety as well as environmental resources caused by abandoned mines greatly suppresses economic opportunities in these regions. Such communities are often under more general economic distress, and AML work has emerged as an important means of relief.

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<sup>11</sup> This is the impetus for H.R. 315, The Community Reclamation Partnerships Act (CRPA) introduced by Rep. LaHood and passed out of full Committee on May 9. We strongly support this bill and, as in the 115<sup>th</sup> Congress, anticipate its passage by the full House. The bill’s provisions would allow states and their reclamation partners to work through the existing SMCRA Title IV AML program to institute a “Good Samaritan” approach that will facilitate water treatment associated with AML sites.

<sup>12</sup> States who operate acid mine drainage treatment systems such as lime dosers indicate that were these systems terminated due to lack of funding, the streams and tributaries that benefit from such treatment would return to their debilitated condition within weeks. Hence the need for and value of the AMD set-aside program authorized under Section 402(g)(6) of SMCRA.

The AML program's vital role in improving economic well-being in AML impacted communities is most directly realized by reducing the drag on economic development caused by the AML hazards and environmental impacts. Economic benefits accrue from the AML programs' conventional work, for example responding to and constraining constant damage to infrastructure stability caused by subsidence events and landslides. The water treatment work conducted by the AML programs is particularly impactful on economic conditions by providing access to clean water and restoring opportunities for tourism and recreation. AML projects make fundamental contributions to establishing the conditions needed for AML-impacted communities to thrive and to attract economic investment.

The AML programs' work also results in thousands of direct as well as indirect jobs. AML projects spur additional economic activity in turn, providing support for other industries. In a time when coal mining job losses are being felt more than ever, the employment opportunities stemming from AML work have become all the more important, especially where AML work requires similarly-skilled workers. AML projects typically utilize construction contractors who were very often former mine operators themselves and who in turn employ many former miners and other local workers in depressed coalfield communities.

The contribution the AML Program makes to building up economic value and employment is further multiplied when newly reclaimed sites once again become suitable for development. AML sites can be prime locations for new business ventures and/or tourist attractions, creating new space for communities to grow economically. Restored water resources also breed new opportunities and growth, for example by restoring recreational value to streams and lakes and ensuring access to clean water for human and industrial uses. It is estimated that through the effects of AML work, every dollar of AML funding spent returns \$1.61 to local economies<sup>13</sup>; and for every mile of stream improved, there is a net gain of \$106,000 per year to local economies<sup>14</sup>.

A study by the Appalachian Citizen's Law Center in 2015 found that "In FY2013, the AML program made a total economic impact of \$778 million, a net impact of \$450 million on US GDP, and supported 4,761 jobs through AML reclamation work. Central Appalachian states saw a total economic impact of \$182 million, a value-added impact of \$102 million, and 1,317 jobs supported by the AML Program. As demonstrated by a national FY2013 value-added (net) impact of nearly half a billion dollars, the program delivers a substantial contribution to the American economy on an annual basis. For its environmental and economic impacts, the AML Program demonstrates a forty-two year long, highly successful proof of concept and is absolutely crucial to the future of coalfield communities in the United States."<sup>15</sup>

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<sup>13</sup> Trout Unlimited, "Cleaning Up Abandoned Mine Drainage in the West Branch Susquehanna Watershed." July 2009

<sup>14</sup> Pennsylvania Fish and Boat Commission, "Recreational Use Loss Estimates for Pennsylvania Streams Degraded by AMD for base year 1989 adjusted to 2015"

<sup>15</sup> Dixon, Eric and Kendall Bilbrey, Abandoned Mine Land Program: A Policy Analysis for Central

Clearly, the AML programs are key contributors to economic conditions. It is no surprise that the AML program has taken on such importance in discussions around facilitating economic revitalization in depressed coalfield regions, indicated by the introduction and Committee passage of H.R. 2156, the Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More (RECLAIM) Act.

## **Conclusion**

In an era of increasing economic hardship for coalfield communities, the state and tribal AML programs' work has become more important than ever. This fact is evidenced by the widespread discussions in recent years surrounding innovative approaches to accomplishing AML. In this regard, the full Committee, in a markup last May, approved two pieces of legislation that address these types of approaches: the Community Reclamation Partnerships Act (CRPA) (H.R. 315) and the RECLAIM Act (H.R. 2156). Significant AML and associated economic development work have also been undertaken by the states and tribes pursuant to the AML Reclamation Economic Development Pilot Program, which is in its fourth year of operation. And the bill the Subcommittee has before it today, H.R. 4248, is the linchpin that holds many of these efforts together and is thus critical in fulfilling Congress' goals. All of these legislative measures have enjoyed significant bi-partisan support – showing recognition on both sides of the aisle of the fundamental role AML work plays in protecting human and environmental health and creating conditions for economic growth.

The legacy of abandoned mines still looms large in historic coalfield communities throughout the country, and their well-being remains deeply reliant on funding from the AML Program. Unfortunately, these storied communities whose generations of courageous, hardworking coal miners contributed so much to the development of our country are left with the debilitating health and economic impacts of historic mining. Innovative approaches to enhancing the benefits of AML work by building partnerships and facilitating economic growth hold great promise for the AML program's place in the future of coalfield communities. In view of the clear continuing role for the AML programs, and the immense remaining AML inventory, it must be recognized that if the long-term health, safety, environment, and economic livelihoods of these most deserving communities are truly to be protected and restored, it is imperative that the continuing need for AML work be kept firmly in mind. In order to bring a bright economic future back to coal country, a future for the AML programs must be ensured.

We appreciate the attention paid by Chairman Lowenthal and the Subcommittee to the enduring importance of the AML Program in the hearing today.

**Statement of Travis G. Parsons, Planning Administrator of the Abandoned Mine Lands Program of the West Virginia Department of Environmental Protection on Behalf of the National Association of Abandoned Mine Land Programs re. the FY 2021 Proposed Budgets for the Office of Surface Mining Reclamation and Enforcement (OSMRE) and Bureau of Land Management (BLM) before the House Interior, Environment and Related Agencies Subcommittee – March 5, 2020**

My name is Travis Parsons and I serve as Planning Administrator of the Abandoned Mine Lands Program within the West Virginia Department of Environmental Protection. I am providing this statement on behalf of the National Association of Abandoned Mine Land Programs (NAAML), for which I currently serve as President. NAAML represents 32 states and tribes, of which 28 implement federally approved abandoned mine land reclamation (AML) programs authorized under Title IV of the Surface Mining Control and Reclamation Act (SMCRA). My address is 601 57<sup>th</sup> Street, SE, Charleston, WV 25304. My phone number is (304) 414-1185. My email is [Travis.G.Parsons@wv.gov](mailto:Travis.G.Parsons@wv.gov).

The 2006 amendments to Title IV of SMCRA significantly changed how state and tribal AML grants are funded. Beginning in FY 2008, these grants are funded primarily by mandatory appropriations consisting of receipts from a fee on coal production held in the AML Trust Fund, a portion of the Secretary's discretionary share in the Fund, and Treasury funds. As a result, and based on current OSMRE projections, the states and tribes should receive \$182 million (before sequestration) in FY 2021, which we strongly support. OSMRE's proposed budget also includes a discretionary appropriation request that would provide \$23.1 million to fund the agency's own AML work, its administration of the AML Fund, and other activities in support of the AML program.

The Bureau of Land Management (BLM) has requested an amount of \$27.8 million to fund its own AML and hazardous materials program related to hardrock mining.

SMCRA has been successful largely as a result of the cooperative federalism model that it employs. While the states and tribes understand and appreciate OSMRE's role in the AML program under SMCRA, we caution against using limited OSMRE funding for unproductive ends, for example OSMRE oversight that second-guesses state/tribal assessments or requires unnecessary levels of supplemental information that does not advance program purposes. Rather than having OSMRE engage in more oversight, the states and tribes would benefit from a more collaborative relationship with OSMRE in completing the challenging work associated with AML program requirements. For example, we believe that funding for technical assistance and applied science projects related to AML work is particularly important. We also urge the Subcommittee to maintain necessary funding for OSMRE's training program and TIPS, including moneys for state/tribal travel. These initiatives are central to the effective implementation of state and tribal AML programs as they provide necessary training and continuing education for state/tribal agency personnel, as well as critical technical assistance.



We also strongly support maintaining funding for the Watershed Cooperative Agreements in the amount of \$1.5 million. OSMRE proposes to eliminate this funding in FY 2021. However, this funding serves an important role in facilitating state and local partnerships, thereby helping to leverage outside sources of funding and preserve precious reclamation grant funding<sup>1</sup>.

NAAMLPLP strongly recommends an increase in annual funding available to minimum program states. These states often have very significant AML inventories but funding under the current grant distribution formula is not enough to make efficient progress with their AML inventories<sup>2</sup>. In the interest of enabling these AML programs to fulfill their potential, NAAMLPLP believes an increase in minimum program funding to an annual grant amount of at least \$5 million would be very beneficial. In this regard, we support provision in recent legislation that has been introduced in the 116<sup>th</sup> Congress (H.R. 2156 and H.R. 4248) that would increase minimum program funding.

Further to the goal of efficiency in the use of limited AML grant funding, sequestration of AML grants under the Budget Control Act of 2012 is an increasing concern to the state and tribal AML programs. In FY 2020, a sequestration reduction of 5.9% translated to \$10.7 million withheld for a total of approximately \$147.9 million withheld since 2013<sup>3</sup>. If coal production further declines, thereby reducing fee collections, the funding lost to sequestration becomes increasingly important to help maintain strong AML programs.

NAAMLPLP recommends that Congress consider exemption of the AML fund from sequestration a priority as it pursues legislative initiatives related to AML, as the benefits are patent, and every dollar of AML funding is needed. Because the AML fee is paid by the coal mining industry for the exclusive purpose of AML remediation, withholding that funding does not actually reduce the federal budget deficit – but it does mean less money returned to local economies to remediate local safety and environmental hazards. NAAMLPLP also recommends that the Subcommittee explore mechanisms to release the growing balance of withheld AML moneys related to sequestration as part of the appropriations process<sup>4</sup>. Provisions in H.R. 4248 address these two concerns.

NAAMLPLP also recommends attention be given to the way AML emergencies are handled under Title IV. Responding to sudden emergencies such as sinkholes and landslides is one of the AML programs' most important functions. Starting in 2010, OSMRE instituted a policy whereby state and tribal AML programs must fund AML emergencies from their regular AML grants. This change has proven problematic, especially in that it diverts

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<sup>1</sup> Funding for these agreements will also potentially be a key support for Good Samaritan programs and projects should Congress adopt legislative language supporting Good Samaritan clean-up activities.

<sup>2</sup> At the current rate, some minimum program states have AML inventories that would literally take hundreds of years to reclaim completely.

<sup>3</sup> For minimum program states only receiving \$3 million per year the loss is especially problematic.

<sup>4</sup> According to OSMRE, the specific amounts that have been withheld from each state or tribe are being tracked so that, once OSMRE has authority to distribute those funds, they could be repaid to the state and tribal AML programs for which they were originally intended. According to OSMRE, there is no authority to distribute withheld funds unless so provided by Congress.

grant funding away from progress with current AML inventories<sup>5</sup>. NAAMLP recommends a return to the pre-2010 system wherein AML programs received reimbursement from the OSMRE discretionary share for emergency projects. This will encourage efficient progress with reclamation as well as ensure that the state and tribal AML programs are well equipped to fulfill their important public safety role. H.R. 4248 also addresses this critical element of the AML program.

The Committee's recognition of the important role played by the AML program is evidenced by the ongoing provision of AML Economic Development Grant funds. The projects underway due to this pilot program exhibit potential economic as well as safety and environmental benefits, though the types of projects undertaken and benefits they hope to achieve have varied significantly among the states. The pilot has also served to inform potential future economic development-focused reclamation efforts. NAAMLP therefore opposes the reduction of funding for the pilot program in OSMRE's FY 2021 proposed budget, and notes that these grants are not redundant to regular AML grant funding; pilot funding has a distinctly economically-focused purpose, whereas regular AML grant funding is focused on human and environmental health.

While the pilot program has been generally successful so far, and OSMRE's guidance documentation has been helpful, the states involved with the pilot program recommend that OSMRE's project vetting process be more efficient. Several states are awaiting project approvals from OSMRE for their pilot project proposals, which could cause significant delays if construction seasons are allowed to expire before projects can get underway. A shift in the direction of efficiency may aid the overall success of the program at this juncture.

Beyond the coal sector, NAAMLP represents many states with significant hardrock AML problems within their borders<sup>6</sup>. In the absence of a hardrock AML funding source comparable to Title IV funding for coal AML, state and tribal hardrock AML programs struggle to maintain adequate funding and make consistent progress. There is no comprehensive account of the scale of the hardrock AML problem, but it is often cited as being in the tens of billions of dollars. In light of the disparity between available funding and the scale of the problem, NAAMLP expressed concern with significant reductions to hardrock AML funding contained in BLM's FY 2019 proposed budget. We were therefore encouraged by the change contained in the FY 2020 budget, which would still combine the AML program with the hazardous materials program, but would maintain the total funding previously provided.

BLM hardrock AML funding is one of very few resources available for hardrock AML reclamation. Hardrock AML problems occur on both private and federal lands, meaning that the BLM AML program is the primary means of addressing public safety and

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<sup>5</sup> This is a particular problem for minimum program states, who can have entire years' worth of progress with their limited annual grant preempted by a single emergency project.

<sup>6</sup> For example, Arizona alone estimates that they have in excess of 50,000 hazardous historic-mining hazards. More information about remaining AML reclamation costs and reclamation accomplishments can be found in NAAMLP's 2018 Update of the "*Safeguarding, Reclaiming, Restoring*" booklet

environmental impacts. What's more, BLM cooperates closely with the state and tribal AML programs to conduct this work, meaning that any cut to BLM funding will have a cascading negative effect on the state level programs. NAAMLPLP recommends BLM's hardrock AML program funding be maintained going forward.

Returning to discussion of coal AML - with the AML fee on which the Title IV program relies set to expire in 2021, NAAMLPLP has been engaged in serious discussions regarding the program's future. It is clear that the continuing need for these programs is strong. The AML pilot highlights the fact that AML work is especially important to the struggling communities in Appalachia who have been hit hardest by downturns in coal related employment – the mitigation of which has been a congressional and Administration priority in recent years. AML sites endanger public health and safety, degrade the environment, and dampen economic prospects, which severely constrains well-being and growth in AML-impacted communities nationwide. AML programs have been contending with these issues for over 40 years and have learned much about the true depth and scale of AML impacts over that time, as well as the health and economic benefits these projects bring to nearby communities. See [www.ourworksnotdone.org](http://www.ourworksnotdone.org)

Despite the progress that has been made, the time allotted to the AML programs to restore impacts from more than two hundred years of unregulated coal mining has simply not been adequate to complete that mission by the time the AML fee expires in 2021. Current OSMRE estimates project that over \$10 billion in reclamation costs will remain, and NAAMLPLP believes the true costs are even higher. There can be little question that if the AML program is to complete its mission, and if its fundamental contributions to living conditions and economic circumstances in coalfield communities are to continue, additional AML funding will be required beyond 2021. If the AML fee is not reauthorized, consideration must be given to how the more than \$10 billion in public liability represented by remaining coal AML costs will be addressed going forward.

NAAMLPLP is encouraged that discussions around reauthorization of the AML program have now come to forefront with the introduction of H.R. 4248 and S. 1193. Important questions are being asked about how much and what type of AML work is being accomplished and what types of AML problems remain. It should be noted that the AML accomplishments data furnished by OSMRE through its budget justifications document and the e-AMLIS database represent only a selective portion of the work that is being accomplished through AML grant funding. This is mainly due to the fact that e-AMLIS only records construction costs and does not include data on costs such as program administration, project management, and most importantly, project design. NAAMLPLP has been working with OSMRE to examine data related to the AML program in order to more accurately tell the story of the AML program. As an example of what has so far been produced by that effort, the NAAMLPLP 2018 Accomplishments report can be found in the footnote below<sup>7</sup>. The state and tribal AML programs have been in the lead role in conducting reclamation and tracking progress for the last 40 years. We look forward to working closely with the Committee as it considers the future of the AML program.

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<sup>7</sup>[http://naamlp.net/includes/SafeguardingReclaimingRestoringBooklet%202018\\_web\\_version.pdf](http://naamlp.net/includes/SafeguardingReclaimingRestoringBooklet%202018_web_version.pdf)