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EPA takes major step forward on cleaning up abandoned mines

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New policies and tools will help 'Good Samaritans' remove mine waste, restore watersheds, improve fisheries

{Denver, Colo. -- June 6, 2007} New policies and administrative tools released today by the U.S. Environmental Protection Agency will enable public and private parties to take voluntary cleanup actions at orphaned mine sites across the West. These tools provide for the use of "Good Samaritan Settlement Agreements" to remove long-standing legal uncertainties associated with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the nation's Superfund law.

"President Bush is clearing legal roadblocks that for too long have prevented the cleanup of our nation's watersheds. Through EPA's administrative action, we are reducing the threat of litigation from voluntary hardrock mine cleanups and allowing America's Good Samaritans to finally get their shovels into the dirt," said U.S. EPA administrator Stephen L. Johnson.

"Today's long-awaited announcement provides a 'green light' for Good Samaritans to restore clean water and healthy ecosystems in mine-impacted areas," said EPA regional administrator Robert E. Roberts. "These tools will accelerate the pace of environmental progress in communities and watersheds throughout the West."

Under a set of policies and model tools announced today, EPA and volunteer parties will now be able to enter into Good Samaritan Settlement Agreements. These agreements provide key legal protections to Good Samaritans as non-liable parties including: a federal covenant not to sue under CERCLA and protection from third-party contribution suits. Other tools include a model comfort letter intended for Good Samaritan parties.

The liability clarification that these tools provide will allow Good Samaritans to proceed with qualified projects -- such as efforts to remove and cap waste rock, tailings piles and soils contaminated with high levels of lead, arsenic, zinc, and other metals in areas where they threaten human health and water quality.

"EPA's action today is a welcome and important step forward," said James Martin, executive director of the Colorado Department of Public Health and the Environment. "It will provide potential Good Samaritans with the reassurance they need to move ahead on cleaning up some of the mining sites in states like ours. Even more important, today's action will clear the way for passage of targeted federal legislation that will lead to even more voluntary clean-up projects at sites across the West. We will all benefit from cleaner water and expanded fisheries."

There are an estimated 500,000 orphan mines in the United States, most of which are former hardrock mines located in the West. Thousands of watersheds and stream miles are impacted by drainage and runoff from these mines, one of the largest sources of water pollution in the region.

At many orphan mine sites and processing areas, disturbed rock and waste piles contain high levels of sulfides and heavy metals. These piles, when exposed to air and water, undergo physical and chemical reactions that create acid drainage. As this drainage runs through mineral-rich rock, it often picks up other metals --such as arsenic, cadmium, lead, mercury and zinc -- in solution or in suspension as sediment. When this runoff enters local streams and rivers, it can severely degrade water quality, damage or destroy insect, plant and animal life.

In many cases, the parties responsible for the pollution from orphan mine sites no longer exist or are not financially viable. Yet, a variety of interests, including nonprofit organizations and state and local governments -- are eager to voluntarily clean up these abandoned sites even though they are not responsible for the pollution. Many potential Good Samaritans have expressed concerns that they may be held liable under the Clean Water Act and CERCLA. This obstacle has prevented many cleanup projects from moving forward.

Good Samaritan Agreements are intended for use by EPA regional offices working with non-liable volunteers to clean up abandoned hard rock mines. These tools preserve CERCLA's fundamental principle that responsible parties should pay for cleanups as intended by Congress. These tools do not absolve responsible parties of their existing liability for pollution.

While today's announcement is a significant step forward, the Agency cannot remove all legal risks and uncertainties associated with orphan mine sites. EPA believes that targeted legislation will allow even more Good Samaritan cleanups to happen.

For more information, visit: <http://www.epa.gov/compliance/resources/publications/cleanup/superfund/factsheet/goodsam-tools-fs.html>