114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 114–717
Part 1

LOCATABLE MINERALS CLAIM LOCATION AND MAINTENANCE FEES ACT

SEPTEMBER 6, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3843]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3843) to authorize for a 7-year period the collection of claim location and maintenance fees, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Locatable Minerals Claim Location and Maintenance Fees Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

TITLE I—MINING CLAIM LOCATION AND MAINTENANCE FEES

SEC. 101. DEFINITIONS.

In this title:

(1) CLAIM.—The term "claim" means an unpatented lode mining claim, placer claim, mill site, or tunnel site located under the general mining laws.

(2) CLAIM HOLDER AND CLAIMANT.—The terms "claim holder" and "claimant" mean the owner or holder of a claim.

(3) CERTIFIED MINERAL EXAMINER.—The term "Certified Mineral Examiner" means an employee of the Federal Government who—

(A) possesses sufficient college education to qualify as a geologist, mining engineer, or metallurgical engineer; and

(B) has completed training specified by the Chief Mineral Examiner of the Bureau of Land Management, Department of the Interior.

(4) CERTIFIED REVIEW MINERAL EXAMINER.—The term "Certified Review Mineral Examiner" means a Certified Mineral Examiner who is determined by the Bureau of Land Management Mineral Examiner Certification Panel to possess an additional breadth of training and experience that is sufficient to review mineral potential reports and mining claim validity exam reports.

(5) FEDERAL LANDS.—The term "Federal lands" means lands and interests in lands owned by the United States that are open to mineral entry and location, or that were open to mineral entry and location at the time of entry or location.

(6) GENERAL MINING LAWS.—The term "general mining laws" means those Acts that generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of title 30, United States Code, all Acts that are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(7) LOCATABLE MINERALS.—The term "locatable minerals" means those minerals held by the United States and not subject to disposition under—

(A) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

(C) the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

(D) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(8) MINERAL ACTIVITIES.—The term "mineral activities" means any activity on Federal lands under a claim with or without a discovery, or off of claims, for mineral prospecting, exploration, development, mining, extraction, milling, beneficiation, processing, storage of mined or processed materials, or reclamation activities for any locatable mineral and uses that are reasonably incident thereto, including the construction and use of roads, transmission lines, water wells, pipelines, utility corridors, and other means of access across Federal lands for ancillary facilities used in conjunction with such activity.

(9) MINERAL POTENTIAL REPORT.—The term "mineral potential report" means a report described in section 204(c)(2)(12) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(c)(2)(12)).

(10) MINING CLAIM VALIDITY EXAM.—The term "mining claim validity exam" means an examination of a mining claim to determine if it establishes a valid existing right in a valuable mineral deposit (as that term is used in section 2319 of the Revised Statutes (30 U.S.C. 22)).

(11) PERSON.—The term "person" means an individual, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative, or other organization, and any instrumen-

tality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Interior, unless otherwise specified.

(13) UNITED STATES MINERAL DEPOSIT DATABASE PROJECT.—The term "United States Mineral Deposit Database Project" means the interactive database of mines and mineral deposits in the United States administered by the United States Geological Survey Mineral Resources Program.

SEC. 102. CLAIM LOCATION AND MAINTENANCE FEES.

(a) LOCATION FEE.—For each claim located after the date of enactment of this Act, a claimant shall pay the Secretary a location fee of $37 not later than 90 days after the date of location, at the time the location notice is recorded with the Bureau of Land Management.

(b) ANNUAL CLAIM MAINTENANCE FEE.—Commencing the first calendar year after the date of enactment of this Act, a claimant shall pay the Secretary on or before September 1 of each year, a claim maintenance fee of $155 per 20.66-acre claim or fraction thereof to maintain the claim for the following assessment year beginning at noon on September 1. Payment of such claim maintenance fee shall be in lieu of the assessment work requirement contained in the general mining laws and the related filing requirements contained in subsections (a) and (c) of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(c) WAIVER FOR HOLDERS OF 10 OR FEWER CLAIMS.—

(1) IN GENERAL.—The claim maintenance fee required under this section shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due—

(A) the claimant was—

(i) the holder of not more than 10 lode claims on Federal lands; or

(ii) an association that held less than or equal to 320 acres; and

(B) the claimant has performed assessment work sufficient to maintain the claims held by the claimant for the assessment year ending on noon of September 1 of the calendar year in which the claim maintenance fee payment was due.

(2) HOLDER.—As used in paragraph (1), the term "holder" includes—

(A) the claimant;

(B) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the claimant; and

(C) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) CERTIFICATION PROCESSING FEE.—The Secretary shall charge a certification processing fee of $30 for the filing of a certification under this subsection.

(d) SUSPENSION OF CLAIM MAINTENANCE AND WAIVER OF COST RECOVERY FEES.—

(1) CLAIM MAINTENANCE FEE.—The claim maintenance fees required under this section shall be suspended for any claims of a claimant for an area that was open to mineral entry and location at the time of entry or location that has subsequently been segregated or withdrawn from mineral entry and location by order of the Secretary or a law enacted after the date of the enactment of this Act until such time as the area is reopened to mineral entry, or the claimant has submitted a notice or permit to explore or develop his or her claims or is actively mining.

(2) COST RECOVERY FEES.—The fees required by part 3000 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this Act, and any substantially similar fee charged for a mining claim validity exam, shall be waived for any claimant with claims in an area that was open to mineral entry and location at the time of claim location that has subsequently been segregated or withdrawn from mineral entry and location by order of the Secretary or a law enacted after the date of the enactment of this Act.

(e) EFFECTS OF PAYMENT.—

(1) IN GENERAL.—Timely payment of the location and claim maintenance fees under this section secures the rights of the holder of a mining claim against the Federal Government both prior to and after discovery of valuable mineral deposits, to use and occupy Federal lands under the provisions of the general mining laws for all mineral activities. This section shall not be construed to amend section 910 of the Revised Statutes (30 U.S.C. 53) or in any way affect the law of possession or the doctrine of pedis possessio.

(2) WAIVER OF CLAIM MAINTENANCE FEE.—In the case of a claim holder who qualifies for a waiver of payment of the claim maintenance fee under subsection

(c), timely payment of the location fee and compliance with the assessment work required under the general mining laws (30 U.S.C. 28–28e) secures the rights of the holder of a claim, both prior to and after discovery of valuable mineral deposits, to use and occupy Federal lands under the provisions of the general mining laws for all mineral activities.

(f) FORFEITURE OF UNPATENTED CLAIM FOR FAILURE TO PAY MAINTENANCE FEE.—

(1) FAILURE TO PAY.—Failure to pay a claim maintenance fee or a location fee under this section for an unpatented mining claim shall subject the claim to forfeiture by the claim holder as provided in this subsection.

(2) NOTICE.—The Secretary of the Interior shall provide the claim holder—

(A) notice of the failure; and

(B) the opportunity to correct the failure within 45 days after the claim holder's receipt of the notice.

(3) AMOUNT.—To correct the failure the claim holder must, within such 45-day period, pay twice the amount of claim maintenance fee that would otherwise have been required to be timely paid. The Secretary shall specify the amount that must be paid in the notice under paragraph (2).

(4) FORFEITURE.—Failure by the claim holder to make a timely and proper payment in the amount specified in the notice, within 45 days after the claim holder's receipt of the notice, shall constitute a forfeiture of the mining claim by the claim holder by operation of law.

(g) EFFECTIVE PERIOD OF FEES.—The fees imposed under this section shall apply during the period beginning September 1, 2016, and ending August 31, 2022.

SEC. 103. MINING CLAIM VALIDITY EXAMS AND MINERAL REPORTS FOR AREAS SEGREGATED OR WITHDRAWN FROM MINERAL ENTRY.

All mining claim validity exams shall be completed by Certified Mineral Examiners and reviewed by Certified Review Mineral Examiners.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of the Interior to carry out mining law administration program operations $40,000,000 for each of fiscal years 2016 through 2022.

SEC. 105. MINERAL POTENTIAL REPORTS AND MINING CLAIM VALIDITY EXAMS.

Mineral potential reports for areas withdrawn from mineral entry, and any mining claim validity exam on claims located within those areas, must be completed or prepared by a Certified Mineral Examiner and reviewed by Certified Review Mineral Examiner.

SEC. 106. UNITED STATES MINERAL DEPOSIT DATABASE.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of the United States Geological Survey shall enter into separate memoranda of understanding to share data for the purpose of expanding and maintaining the United States Mineral Deposit Database, with each of—

(1) the Director of the Bureau of Land Management;

(2) the Director of the Office of Surface Mining Reclamation and Enforcement; and

(3) the Chief Forester of the Forest Service.

(b) FUNDING.—From amounts available for each of fiscal years 2016 through 2022 for operations to administer the mining laws, the Secretary may use not more than $1,000,000 to support the United States Mineral Deposit Database of which not more than 5 percent may be used for overhead expenses.

TITLE II—DEPARTMENT OF THE INTERIOR INACTIVE AND ABANDONED NONCOAL MINE LANDS PROGRAM

SEC. 201. DEFINITIONS.

In this title:

(1) ENVIRONMENTAL HAZARD.—The term "environmental hazard" means degradation of air, soil, or water resources resulting from the effects of past mining practices.

(2) HISTORIC MINE RESIDUE.—The term "historic mine residue" means mine residue, or conditions related to an inactive or abandoned mine site that pollute the environment, resulting from prior mining activities, including—

(A) tailings or mine waste piles;

(B) abandoned equipment (or materials in such equipment); and

(C) acidic or otherwise polluted flows in surface or ground water.

(3) INACTIVE AND ABANDONED NONCOAL MINE LANDS.—The term "inactive and abandoned noncoal mine lands" means any location of a noncoal mine, including mill sites and processing sites, that was inactive or abandoned before January 1, 1981, and that—

(A) contains historic mine residue;

(B) is not owned by any person who caused or contributed to the historic mine residue;

(C) was used for the production of a noncoal mineral; and

(D) is no longer in operation and is not subject to a temporary shutdown, as determined by the Secretary.

(4) PHYSICAL SAFETY HAZARD.—The term "physical safety hazard" means any dangerous condition or effect resulting from past mining practices, that poses a risk of death or serious injury to the public, livestock, or wildlife.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) WATER RESOURCES.—The term "water resources" means any watershed, ground water, water course, or lake.

SEC. 202. ESTABLISHMENT OF INACTIVE AND ABANDONED NONCOAL MINE LANDS PROGRAM.

(a) ESTABLISHMENT.—There is established in the Department of the Interior a program to be known as the Abandoned Noncoal Mine Lands Program (referred to in this section as the "Program"). The Program shall be administered by the Secretary of the Interior acting through the Director of the Bureau of Land Management.

(b) DESCRIPTION OF PROGRAM.—Under the Program, the Secretary shall—

(1) identify, secure, and remediate physical safety hazards and environmental hazards associated with inactive and abandoned noncoal mine lands that are located on, or affecting, Federal public lands, including such hazards on other lands that are adjacent to such Federal lands;

(2) maintain an inventory of the sites of such inactive and abandoned noncoal mines, affected Federal public lands, and other lands that are adjacent to such Federal public lands, including such sites that have been remediated in whole or in part, and associated water resources; and

(3) identify the persons, if any, who are responsible for paying the costs to remediate such hazards.

(c) PRIORITIES.—In securing and remediating hazards under this title, the Secretary shall give priority (in the following order of priority) to—

(1) the protection of public health, safety, and general welfare from the adverse effects of inactive and abandoned noncoal mine lands; and

(2) the reclamation of land and water resources degraded by the adverse effects of such mine lands.

SEC. 203. INACTIVE AND ABANDONED MINE LAND PROGRAM PARTNERS.

The Secretary, where appropriate, shall seek out Federal agencies or departments, State agencies, Indian tribes, nonprofit organizations, individuals, and corporations to participate as partners, including partners that are Good Samaritans (as that term is defined in title III), to facilitate remediation and securing of physical safety or environmental hazards under this title.

SEC. 204. PRIORITY SITES FOR GOOD SAMARITAN PROJECTS ON FEDERAL LANDS.

(a) IDENTIFICATION REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with other Federal land management agencies, shall identify a minimum of 20 priority sites on Federal land containing inactive or abandoned mine sites suitable for Good Samaritan projects under title III.

(b) NOMINATIONS.—In identifying priority sites under subsection (a), the Secretaries shall accept nominations from the public.

(c) ANNUAL REVIEW.—The Secretaries shall annually review the sites identified under subsection (a) and identify additional priority sites as appropriate.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $17,000,000 for each of fiscal years 2016 through 2020.

TITLE III—GOOD SAMARITAN REMEDIATION OF ABANDONED MINE LANDS

SEC. 301. SHORT TITLE.

This title may be cited as the "Good Samaritan Cleanup of Abandoned Mine Lands Act".

SEC. 302. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COOPERATING PERSON.—The term "cooperating person" means any person (other than a Federal agency) that—

(A) is a Good Samaritan;

(B) assists another Good Samaritan in a remediation project; and

(C) is identified as a cooperating person in a permit issued under this title.

(3) ENVIRONMENTAL LAWS.—The term "environmental laws" means—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and any State law implementing a permit program under section 402(b) or 404(g) of such Act; and

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(4) FEDERAL LAND MANAGEMENT AGENCY.—The term "Federal land management agency" means any agency of the Federal Government authorized by statute to exercise jurisdiction, custody, or control over lands of the United States.

(5) GOOD SAMARITAN.—The term "Good Samaritan" means any person that did not participate in any way in the creation of, or activities that caused, any historic mine residue at the inactive or abandoned mine site and that—

(A) has an ownership interest in the inactive or abandoned mine site, but—

(i) is not liable or potentially liable for remediation costs related to the historic mine residue at the inactive or abandoned mine site, or affiliated with any other person potentially so liable through any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which the ownership interest in the inactive or abandoned mine site is conveyed or financed or by a contract for the sale of goods or services); and

(ii) is not a successor entity to a business entity that was liable or potentially liable for such remediation costs;

(B) has an ownership interest in the inactive or abandoned mine site that was acquired through the inheritance of a patented mining claim; or

(C) has no ownership interest in the inactive or abandoned mine site and had no such an interest at any time during or since the creation of the historic mine residue at the site.

(6) HISTORIC MINE RESIDUE.—The term "historic mine residue" means mine residue, or conditions related to an inactive or abandoned mine site that pollute the environment, resulting from prior mining activities, including—

(A) tailings or mine waste piles;

(B) abandoned equipment (or materials in such equipment); and

(C) acidic or otherwise polluted flows in surface or ground water.

(7) INACTIVE OR ABANDONED MINE SITE.—The term "inactive or abandoned mine site" means any mine site, including any mill or processing site, that—

(A) contains historic mine residue;

(B) is not owned by any person who caused or contributed to the historic mine residue;

(C) was used for the production of a mineral-bearing ore or coal; and

(D) is no longer in operation and is not subject to a temporary shutdown, as determined by the permitting authority.

(8) INDIAN COUNTRY.—The term "Indian country" has the meaning given the term in section 1151 of title 18, United States Code.

(9) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe that—

(A) is federally recognized; or

(B) is an Alaska Native Corporation as defined under section 1602 of title 43, United States Code.

(10) LEAD AGENCY.—The term "lead agency" means a State or tribal agency designated under section 304(c)(1) as the lead agency responsible for carrying out permitting responsibilities of the State or Indian tribe under this title.

(11) OFFSITE MITIGATION REQUIREMENT.—The term "offsite mitigation requirement" means a requirement imposed under another Federal law to improve, enhance, restore, or create a wetland, stream, or habitat conservation area to offset or compensate for adverse impacts to similar ecosystems resulting from the development of a natural resource or other commercial activity.

(12) PERMITTING AUTHORITY.—The term "permitting authority" means the Administrator or, in the case of a State or tribal program authorized by the Administrator under section 304, the lead agency.

(13) REMEDIATION.—The term "remediation" means activities to clean up or otherwise mitigate the impacts of historic mine residue.

(14) STATE.—The term "State" means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

SEC. 303. PERMITS FOR REMEDIATION OF INACTIVE OR ABANDONED MINE LANDS BY GOOD SAMARITANS.

(a) IN GENERAL.—A permitting authority may issue a permit to a Good Samaritan to carry out a project in accordance with this section.

(b) ELIGIBLE PROJECTS.—

(1) PURPOSE OF PROJECT.—

(A) IN GENERAL.—A permitting authority may issue a permit under this section for a project to improve the environment (including water quality) by carrying out remediation at or related to an inactive or abandoned mine site.

(B) WATER QUALITY.—A permitting authority shall ensure that remediation carried out pursuant to a permit issued under this section—

(i) assists in the attainment of applicable water quality standards to the extent reasonable and practicable under the circumstances; and

(ii) does not result in water quality that is worse than the baseline water condition.

(2) LIMITATION ON ELIGIBILITY.—A permitting authority may not issue a permit under this section for a project at or related to a mine site included on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)) or a mine site at which the Administrator of the Environmental Protection Agency or another Federal, State, or tribal agency is taking an environmental enforcement or response action, unless the permitting authority determines, after consultation with any other interested agency, that—

(A) the proposed project is not inconsistent, and will not interfere, with any other planned remediation at the mine site that is reasonably likely to occur; and

(B) the proposed project will accelerate environmental improvements.

(c) PERMIT APPLICATIONS.—

(1) CONTENTS.—A permitting authority shall require an application for a permit under this section to include—

(A) a description of the project site (including the boundaries of the project site and any degraded waters related to the project site);

(B) an identification of—

(i) any current owner of the property on which the project is proposed to be carried out;

(ii) any person with a legal right to exclude other persons from the project site or affect activities on the project site, with a description of those legal rights;

(iii) for project sites on Federal lands, the Federal land management agency; and

(iv) based on the conduct of an inquiry that is reasonable under the circumstances—

(I) all persons that may be legally responsible for remediation of the project site; and

(II) any relationship between those persons and the applicant;

(C) a description of any contractual ties or other legal relationship between the applicant and all persons with responsibility for compliance with environmental laws at the project site;

(D) a general description of the known and identifiable baseline conditions, including conditions existing prior to the commencement of mining activities, as of the date of submission of the application, of the environment affected by the historic mine residue to be remediated, including, if available, any sampling data or information regarding the nature and extent of the effects on the water quality of any body of water caused by the drainage of historic mine residue or other discharges from the inactive or abandoned mine site;

(E) a description of—

(i) the historic mine residue proposed to be remediated;

(ii) the nature and scope of the proposed remediation, including—

(I) any proposed recycling or reprocessing of the historic mine residue, how the recycling or reprocessing relates to the remediation, and where the recycling or reprocessing will occur; and

(II) the manner in which the proposed remediation will mitigate the drainage from the inactive or abandoned mine site to improve water quality, if applicable;

(iii) the remediation alternatives, if any, considered in developing the proposed remediation plan for the project site;

(iv) engineering plans for the project, bearing the seal of a Professional Engineer;

(v) in the case of a remediation activity that requires plugging, opening, or otherwise altering the portal or adit of an inactive or abandoned mine, an evaluation of inactive or abandoned mine site conditions, including an assessment of any pooled water or hydraulic pressure in the inactive or abandoned mine;

(vi) how any material related to the inactive or abandoned mine site that is identified or listed as hazardous waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) will be disposed of;

(vii) a monitoring program proposed to be carried out following completion of the remediation, if applicable, that will be implemented to evaluate the effects of the remediation on the environment; and

(viii) the capacity (including technical and administrative) of the applicant to carry out the proposed activities and any terms of the permit for which the application is being submitted;

(F) a plan for any operation and maintenance related to the proposed remediation;

(G) a proposed schedule for activities to be carried out under the project, including an expected completion date for the remediation;

(H) a budget for the project;

(I) evidence satisfactory to the permitting authority that the applicant has sufficient financial resources to ensure that the activities proposed to be carried out by the applicant, including any operation and maintenance activities related to the remediation, will be carried out under the permit;

(J) an identification of any cooperating persons and a description of activities proposed to be carried out by such persons;

(K) a description of—

(i) any recognition for excellence in environmental compliance, reclamation, or remediation received by the applicant or any cooperating person identified under subparagraph (J); and

(ii) the history of any noncompliance with environmental laws by the applicant or any cooperating person identified under subparagraph (J) during the 5-year period preceding submission of the application;

(L) if the applicant intends to use the project to comply with an offsite mitigation requirement, a reference to the offsite mitigation requirement and any related permit; and

(M) a specific contingency plan that—

(i) includes provisions on emergency actions, response, and notification; and

(ii) is designed to be used in response to unplanned adverse events, including the sudden release of historic mine residue.

(2) NOTICE REQUIREMENTS.—

(A) STATE, LOCAL, AND TRIBAL COMMUNITIES.—As soon as practicable after receiving an application under this section, a permitting authority shall provide notice of the application, including a copy of the application, to—

(i) each local government located within a radius of 20 miles of the project site;

(ii) each Federal, State, and tribal agency that the permitting authority determines may have an interest in the application; and

(iii) if the project site lies in the headwater area of a major drainage basin, local governments located outside of the 20-mile radius of the project site that are downstream of the project site and may be affected by a discharge resulting from activities carried out pursuant to the project.

(B) PUBLIC NOTICE.—Not later than 30 days after receiving an application under this section, a permitting authority shall provide to the public notice of the application.

(3) INVESTIGATIVE SAMPLING.—

(A) IN GENERAL.—A permitting authority may, upon request, authorize a person to carry out investigative sampling, as determined appropriate by the permitting authority, prior to submitting an application for a permit under this section.

(B) EFFECT OF AUTHORIZATION.—An authorization to carry out investigative sampling under this section shall, with respect to the authorized activities, have the same effect as a permit for the purposes of subsection (g).

(d) PUBLIC PARTICIPATION.—

(1) HEARING.—Prior to issuing a permit under this section, a permitting authority shall conduct a public hearing in the vicinity of the proposed project site, and shall give public notice of the hearing not later than 30 days before the date of the hearing.

(2) DRAFT PERMIT.—The permitting authority shall include a draft permit in the notice of a hearing to be conducted under this section.

(3) COMMENTS.—The permitting authority shall provide the applicant and the public with the opportunity to—

(A) comment on the draft permit at the public hearing; and

(B) submit written comments to the permitting authority during the 30-day period following the hearing.

(e) PERMIT ISSUANCE.—

(1) DEADLINE.—A permitting authority shall issue a permit or deny a permit application under this section not later than—

(A) the date that is 180 days after the date on which the permitting authority receives a complete application for the permit, as determined by the permitting authority; or

(B) such later date as may be determined by the permitting authority, with the agreement of the applicant.

(2) CONSTRUCTIVE DENIAL.—If the permitting authority does not issue a permit or deny the permit application by the applicable date described in paragraph (1), the application shall be considered to be denied by the permitting authority.

(3) AGENCY CONSULTATION.—

(A) CONSULTATION.—In considering whether to issue a permit for a project to be carried out on Federal lands, a permitting authority shall consult with any applicable Federal land management agency.

(B) OBJECTION.—A permitting authority may not issue a permit under this section if—

(i) the proposed project site is not a priority site designated under section 204; and

(ii) the permitting authority receives an objection to the proposed permit from a Federal land management agency with jurisdiction over the project site.

(f) PERMIT CONTENTS.—

(1) IN GENERAL.—A permitting authority shall include in a permit issued under this section—

(A) a description of the activities authorized by the permit, including a description of any activities to be carried out by a cooperating person in accordance with paragraph (5);

(B) a schedule for the activities to be carried out under the project, in accordance with paragraph (3), including an end date by which the permittee shall complete the permitted activities;

(C) conditions requiring the permittee to—

(i) secure, for all activities authorized under the permit, all authorizations, licenses, and permits required under law;

(ii) establish and maintain records, conduct monitoring (as described in paragraph (4)), and provide such other information as may be reasonably necessary to ensure the project will result in improvement to the environment; and

(iii) minimize any short-term adverse environmental impacts from the remediation, to the extent practicable;

(D) a right of entry to the project site for the permitting authority to inspect and collect such information as is reasonably necessary to carry out this title;

(E) if the project to be carried out under the permit will be used by the permittee to comply with an offsite mitigation requirement, a reference to the offsite mitigation requirement and any related permit; and

(F) any other terms and conditions determined appropriate by the permitting authority.

(2) BENCHMARKS.—A permitting authority shall ensure that a permit issued under this section is site- and situation-specific, relying on pre-mining conditions and conditions existing as of the date of issuance of the permit to determine appropriate water quality or other environmental benchmarks to achieve in carrying out remediation under the permit.

(3) TIMING.—A permitting authority shall require activities authorized by a permit issued under this section to—

(A) commence not later than the date that is 1 year after the date on which the permit is issued; and

(B) continue until completed, with temporary suspensions permitted during adverse weather or other circumstances, as approved by the permitting authority.

(4) MONITORING.—

(A) IN GENERAL.—A permitting authority shall require a permittee to take such actions as the permitting authority determines are necessary to ensure, where appropriate, baseline, remedial alternative, and postremediation monitoring of the environment.

(B) ADMINISTRATION.—In selecting the type and frequency of monitoring requirements to be included in a permit under this paragraph, the permitting authority shall—

(i) balance the utility of information obtained through monitoring against the cost of the monitoring, based on the circumstances relating to the project; and

(ii) take into account the scope of the project.

(5) COOPERATIVE ACTIVITIES.—A permitting authority may approve in a permit the conduct of project activities by cooperating persons if, as determined by the permitting authority, the cooperative arrangement will effectively accomplish the purposes of this title.

(g) EFFECT OF PERMIT.—

(1) IN GENERAL.—A person authorized by a permit issued under this section to carry out activities—

(A) shall be deemed to be in compliance with environmental laws with respect to such activities; and

(B) shall not be liable under environmental laws with respect to such activities, including for any costs or damages deriving from the prior, present, or future activities of others at the project site.

(2) LIMITATION.—Paragraph (1) shall not apply if—

(A) the person impedes or fails to facilitate a response action, remediation, or other natural resource restoration activity at the project site;

(B) the person exacerbates the pollution from historic mine residue as a result of gross negligence or intentional misconduct, in which case the person may be liable under environmental laws for costs or damages resulting from such gross negligence or intentional misconduct; or

(C) information supplied to the permitting authority in the permit application is subsequently determined to contain a dishonest, fraudulent, or materially misleading statement or omission, in which case the permit shall be deemed to have been invalid beginning on the date the permit was issued, and shall have no force or effect.

(h) ADMINISTRATION OF PERMITS.—

(1) MODIFICATION OR TERMINATION OF PERMITS.—

(A) AUTHORITY.—A permitting authority may—

(i) extend the period during which a permit is valid under procedures established for such purpose by the permitting authority;

(ii) modify or terminate a permit for cause, including misrepresentation or a violation of a permit; and

(iii) upon the request of the Good Samaritan, and subject to a 30 day public notice and comment period, modify a Good Samaritan permit to take into account any event or condition that—

(I) significantly reduces the feasibility or significantly increases the cost of completing the remediation work at the inactive or

abandoned mine site that is the subject of the Good Samaritan permit;

(II) was not—

(aa) contemplated by the Good Samaritan; or

(bb) taken into account in the remediation plan of the Good Samaritan; and

(III) is beyond the control of the Good Samaritan, as determined by the permitting authority.

(B) TERMINATION.—Unless the permitting authority has extended the period during which a permit is valid, the authority to carry out activities under a permit issued under this section shall terminate—

(i) if the activities do not commence by the date that is 1 year after the date on which the permit is issued;

(ii) if the activities are discontinued or not completed by the end date specified in the permit; or

(iii) on any other grounds determined appropriate by the permitting authority.

(2) TRANSFER OF PERMITS.—A permit may be transferred to another person only if—

(A) the appropriate permitting authority determines that the transferee will satisfy all of the requirements of the permit;

(B) the transferee is a Good Samaritan;

(C) the transferee accepts all of the requirements of the permit;

(D) the permitting authority includes in the transferred permit any additional or modified conditions determined to be appropriate by the permitting authority; and

(E) any Federal, State, or tribal land management agency with jurisdiction over the project site is notified of the proposed transfer and does not object to the permitting authority before the date that is 30 days before the proposed transfer is to take effect.

(3) MAINTENANCE OF RECORDS.—A permitting authority shall maintain all records relating to permits and the permit process under this section.

(i) OTHER ACTIVITIES.—A permit issued under this section may not authorize any new mining activities other than those activities directly related to carrying out remediation at or related to the inactive or abandoned mine site.

SEC. 304. STATE OR TRIBAL PROGRAMS.

(a) IN GENERAL.—A State or Indian tribe may issue a permit under this title if the State or Indian tribe has in effect a Good Samaritan permit program approved by the Administrator under this section.

(b) APPLICATION.—

(1) SUBMISSION.—The Governor of any State or the head of an Indian tribe's governing body may submit to the Administrator an application to carry out a Good Samaritan permit program within its jurisdiction at any time.

(2) CONTENTS.—An application under this section shall include—

(A) a full and complete description of the Good Samaritan permit program it proposes to administer under State or tribal law; and

(B) a statement from the State Attorney General, or, for an Indian tribe, the equivalent official authorized to represent the tribe in court pertaining to the application, that the laws of the State or Indian tribe provide sufficient legal authority to carry out the described program.

(3) APPROVAL.—Not later than 120 days after receiving an application submitted under this subsection, the Administrator shall approve the Good Samaritan permit program unless the Administrator determines that the requirements of this section are not met.

(c) REQUIREMENTS.—To meet the requirements of this section, a State or Indian tribe shall—

(1) designate a lead agency that is responsible for carrying out permitting responsibilities under this section; and

(2) have in effect laws providing sufficient legal authority to carry out a Good Samaritan permit program in accordance with this title.

(d) DELEGATION OF AUTHORITY.—Upon approval of a State or tribal Good Samaritan permit program under this section, the Administrator shall transfer all authority to issue permits under this title for the State or relevant area of Indian country to the lead agency designated under subsection (c)(1).

(e) ADMINISTRATION.—A State or tribal Good Samaritan permit program approved under this section shall be administered in accordance with this title, except that nothing in this title precludes a State or Indian tribe from imposing more stringent requirements on permit applicants or permittees.

SEC. 305. ENFORCEMENT.

(a) IN GENERAL.—A permitting authority may enforce any violation of this title, with respect to which the permitting authority has jurisdiction, by—

(1) issuing an order to comply with the violated provision; or

(2) commencing a civil action for appropriate relief, including a permanent or temporary injunction.

(b) MINIMUM REQUIREMENT.—In the event of a permit violation, and absent extraordinary circumstances, the court shall, at a minimum, require the person to repair, to the extent practicable, the damage to any part of the environment caused by an action of the person in violation of the permit.

(c) CIVIL PENALTY.—Any person who violates this title shall be subject to a civil penalty of up to $5,000 for each day of the violation (except in cases of knowing conduct, in which case the civil penalty shall be $32,500 for each day of the violation).

SEC. 306. GRANTS ELIGIBILITY.

A project authorized by a permit issued under this title is eligible for funding pursuant to section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329).

SEC. 307. CONSTRUCTION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.

No action of the Administrator taken pursuant to this title shall be required to comply with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 308. USE OF PROJECTS TO MEET OFFSITE MITIGATION REQUIREMENTS.

A project authorized by a permit issued under this title shall be considered to satisfy all or part of any offsite mitigation requirement of the permittee, upon approval by the authority imposing the offsite mitigation requirement.

SEC. 309. STATE AND TRIBAL RECLAMATION PLANS UNDER THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

No State or Indian tribe conducting remediation of an inactive or abandoned mine site pursuant to an approved State or tribal abandoned mine reclamation plan approved under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) shall, with respect to the remediation activities, be required to obtain a permit under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 310. SAVINGS PROVISIONS.

(a) EMERGENCY AUTHORITY.—Nothing in this title affects the authority of a Federal, State, tribal, or local agency to carry out any emergency authority, including an emergency authority under environmental laws.

(b) LIABILITY UNDER OTHER LAWS.—Except as provided in section 303(g), nothing in this title or a permit issued under this title limits the liability of any person under any other provision of law.

SEC. 311. SUNSET.

(a) IN GENERAL.—No permitting authority may issue a permit under this title after the date that is 7 years after the date of enactment of this title.

(b) STUDY; REPORT.—

(1) STUDY.—Not earlier than 5 years after the date of enactment of this title, the Administrator, the Secretary of the Interior, and the Secretary of Agriculture, in consultation with the Interstate Mining Compact Commission, shall enter into an arrangement with the National Academy of Sciences, for execution by the Board on Earth Sciences and Resources, to conduct a detailed, comprehensive study of the effectiveness of the permitting activities carried out under this title.

(2) REPORT.—Not later than 7 years after the date of enactment of this title, the Board on Earth Sciences and Resources shall submit to Congress, the appropriate Federal agencies, and the Governors of each of the States represented by the Interstate Mining Compact Commission a report containing—

(A) the results of the study conducted under paragraph (1); and

(B) any recommendations regarding whether the permitting activities carried out under this title should be reauthorized and, if so, any changes that should be made to improve the effectiveness of the activities.

(3) FUNDING.—From the funds collected as claim location fees and maintenance fees under section 102, the Secretary of the Interior shall provide to the National Academy of Sciences such funds as it requests, not to exceed $2,000,000, for the purpose of conducting the study required under this section.

PURPOSE OF THE BILL

The purpose of H.R. 3843 is to authorize for a seven-year period the collection of claim location and maintenance fees.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3843 is part of the Natural Resources Committee's three-pronged response to the Gold King Mine and the Standard Mine spills that occurred in Colorado in August and September 2015, which the Committee is continuing to investigate. Preliminary reports indicated the spills were caused by the Environmental Protection Agency (EPA).

The Bureau of Reclamation, in the Department of the Interior's recent *Technical Evaluation of the Gold King Mine Incident Report,* "found that the conditions and actions that led to the Gold King Mine incident are not isolated or unique, and in fact are surprisingly prevalent. The standards of practice for reopening and remediating flooded inactive and abandoned mines are inconsistent from one agency to another. There are various guidelines for this type of work but there is little in actual written requirements that government agencies are required to follow when reopening an abandoned mine." The report further states:

> The incident at Gold King Mine is somewhat emblematic of the current state of practice in abandoned mine remediation. The current state of practice appears to focus attention on the environmental issues. Abandoned mine guidelines and manuals provide detailed guidance on environmental sampling, waste characterization, and water treatment, with little appreciation for the engineering complexity of some abandoned mine projects that often require, but do not receive, a significant level of expertise.

The Gold King Mine spill, which turned the Animas River an ochre color, helped shine a national spotlight on the range of complex technical, legal, educational and funding related challenges that must be addressed to move forward with success in addressing abandoned mine lands (AML), not just in the Western U.S. but across the country.

Members of the Natural Resources Committee have developed a package of reforms to address these challenges, including H.R. 3843. The others are: H.R. 3734, the Mining Schools Enhancement Act, introduced by Congressman Cresent Hardy (R–NV) and cosponsored by Congressman Ed Perlmutter (D–CO); and H.R. 3844, the Energy and Minerals Reclamation Foundation Establishment Act, introduced by Congressman Jody B. Hice (R–GA).

H.R. 3843 establishes a Good Samaritan program that incentivizes private sector remediation of AML. It directs the EPA to create "Good Samaritan" permits which provide limited liability protections for industry, municipalities and non-profit groups equipped with the technical expertise to deal competently with AML.

This bill also authorizes the collection of Claim Location and Maintenance Fees by the Bureau of Land Management (BLM), and the establishment of an Inactive and Abandoned Non-Coal Mine Land Program, which have previously not been addressed by the

authorizing committee. BLM's Inactive and Abandoned Non-Coal Mine Land Program does receive funding through the annual appropriations process.

Claim location and maintenance fees

Claim location and maintenance fees were first instituted in the 1993 Interior and Related Agencies Appropriations bill which amended the 1872 mining law to require an annual maintenance fee of $100 per claim ($5/acre) in lieu of the assessment work requirement under law. The language included a waiver for claim holders of ten or fewer claims if the claim owner continued to conduct its annual assessment work and file an affidavit with BLM.

These fees were adjusted per law according to the Consumer Price Index for the assessment year beginning September 1, 2014, from $34-$37 (location) and $140-$155 (maintenance) per claim. This adjustment led to the relinquishing of 48,867 claims, at a cost to the federal government of more than $8.5 million in revenue. At $7.75 per acre, the United States has one of the highest land-holding costs in the world for mineral exploration and development.

A portion of these fees are used by BLM for the Mining Law Administration Program. The remainder of the money generated through these fees goes to the general fund of the Treasury. Separately, States collect royalty or royalty equivalent taxes from operating mines and charge additional fees on a per claim basis.

Scope of the AML problem

Today, there are as many as 400,000 abandoned mines across the Western states, some of which pose health and safety hazards and others that pose environmental risks as exemplified by the Gold King Mine spill.

It is important to note that the vast majority of AML features in the West are small prospect pits that do not present a health or safety issue or environmental problems. These are generally relatively shallow pits only a few feet deep. The Midwest and Eastern states also have a serious AML problem from historic coal mining activities, including significant discharges of acid mine drainage.

Many of the hardrock mines or workings were operated in the 1800s and early 1900s prior to the enactment of the Nation's environmental and land management laws in the late 1960s and 1970s that provide the regulatory framework that govern modern mining and reclamation practices in the United States. As such, hardrock AML sites are defined as those that were abandoned before January 1, 1981, the date that BLM's 3809 mining regulations required by the Federal Land Policy and Management Act of 1976 were finalized.

Coal operations began even earlier—in 1738 the first commercial coal mine near Richmond, Virginia, began operations—and have been regulated under a federal statute administered by the States since 1977 with the enactment of the Surface Mining Control and Reclamation Act (SMCRA). Coal AML sites are those that were abandoned prior to enactment of SMCRA.

The need for good samaritans

Many of the Western States have partnered with industry to address problem sites and have remediated, reclaimed or secured nu-

merous AML sites. In several instances the cleanup was paid for by the hardrock mining industry. In addition, several federal agencies have programs for remediation of AML sites located on Federal land.

In 1997, BLM and the U.S. Forest Service began working in earnest to address the hardrock AML problem on public lands, often in concert with other partners such as States and local municipalities. In 2010, BLM initiated an outreach program to claim holders to assist in securing physical hazards from hardrock AML features located within their claim boundaries.

While progress has been made in addressing some of the problem sites, there are legal barriers to creating a more aggressive and substantial program that relies on the expertise and resources of the mining industry and other parties acting as "Good Samaritans" in helping to clean up hardrock AML sites.

The principal legal challenges include the liabilities imposed by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.) and Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., also known as the Clean Water Act (CWA)). Under current law, a mining company, non-profit organization, government or individual acting as a "Good Samaritan" to remediate an AML site runs the risk of being held liable for historic discharges and other existing safety and environmental problems. In H.R. 3843, the Good Samaritan would be given partial relief from the CWA and CERCLA for existing conditions but would be held responsible for the work that they perform. EPA would issue a permit to the Good Samaritan, authorizing the activity.

Two States have led the way in demonstrating that limiting liability can help to leverage resources and produce more and better results in AML cleanups. In 1999, Pennsylvania enacted the "Environmental Good Samaritan Act" encouraging volunteers to improve areas impacted by mineral extraction. To date, 50 projects have been initiated. South Dakota also developed a State-industry partnership program that provides some CERCLA liability relief and a streamlined regulatory and administrative process. More than 65 AML sites in the Black Hills have been remediated and reclaimed.

COMMITTEE ACTION

H.R. 3843 was introduced on October 28, 2015, by Congressman Doug Lamborn (R–CO). The bill was referred to the Committee on Natural Resources, and additionally to the Committees on Transportation and Infrastructure and Energy and Commerce. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Energy and Mineral Resources. On November 4, 2015, the Subcommittee held a hearing on the bill. On June 14, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Doug Lamborn offered an amendment designated 01; it was adopted by unanimous consent. No further amendments were offered and the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by unanimous consent on June 15, 2016.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 11, 2016.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3843, the Locatable Minerals Claim Location and Maintenance Fees Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Jeff LaFave and Jon Sperl.

Sincerely,

KEITH HALL.

Enclosure.

H.R.. 3843—Locatable Minerals Claim Location and Maintenance Fees Act

Summary: H.R. 3843 would require holders of certain mining claims on federal lands to pay fees to the Bureau of Land Management (BLM) to establish and maintain those claims. The bill also would authorize appropriations through 2022 to administer certain mining laws and to clean up land with inactive mines. In addition, the legislation would require BLM to transfer funds to the National Academy of Sciences (NAS) to study the effectiveness of certain permitting activities conducted by the Environmental Protection Agency (EPA) related to the cleanup of abandoned mines. Finally, the bill would authorize the EPA to issue permits for the cleanup of pollution at inactive mine sites.

CBO estimates that enacting H.R. 3843 would reduce direct spending by $319 million over the 2017–2022 period and increase revenues from civil penalties by an insignificant amount; therefore, pay-as-you-go procedures apply. CBO also estimates that implementing the legislation would cost $261 million over the 2017–2021

period and $50 million after 2021, assuming appropriation of the authorized and necessary amounts.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3843 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary effect of H.R. 3843 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017–2021	2017–2026
DECREASES IN DIRECT SPENDING												
Estimated Budget Authority	−52	−53	−53	−53	−53	−53	0	0	0	0	−265	−319
Estimated Outlays	−52	−53	−53	−53	−53	−53	0	0	0	0	−265	−319
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Mining Law Administration:												
Authorization Level	40	40	40	40	40	40	0	0	0	0	200	240
Estimated Outlays	40	40	40	40	40	40	0	0	0	0	200	240
Mine Lands Cleanup:												
Authorization Level	17	17	17	17	0	0	0	0	0	0	68	68
Estimated Outlays	5	11	15	17	12	6	2	0	0	0	60	68
National Academy of Sciences Study:												
Authorization Level	0	0	0	0	0	2	0	0	0	0	0	2
Estimated Outlays	0	0	0	0	0	1	1	0	0	0	0	2
Permitting Activities:												
Estimated Authorization Level	*	*	*	*	*	0	0	0	0	0	1	1
Estimated Outlays	*	*	*	*	*	0	0	0	0	0	1	1
Total Changes:												
Estimated Authorization Level	57	57	57	57	40	42	0	0	0	0	269	311
Estimated Outlays	45	51	55	57	52	47	3	0	0	0	261	311

Note: Amounts may not sum to totals because of rounding; * = less than $500,000 Enacting the bill would increase revenues by an insignificant amount.

Basis of Estimate: For this estimate, CBO assumes that the legislation will be enacted in 2016 and that the authorized and necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar activities.

Direct spending

Existing laws allow BLM to collect several types of fees from those holding mining claims on federal land if the agency is authorized to do so in annual appropriations acts. Under H.R. 3843 BLM would be authorized to collect most of those fees without any subsequent authorization in annual appropriations acts. In 2015, those fees totaled about $57 million.

H.R. 3843 would require BLM to collect three types of fees from holders of mining claims: an annual fee to maintain any claim that

is 20.66 acres or fewer, a one-time fee to locate a new claim, and a certification fee for any claimholder who meets the criteria to have the maintenance fee waived. The agency would be required to charge those fees through 2022. CBO estimates that enacting the legislation would increase offsetting receipts, which are treated as reductions in direct spending, by $319 million over the 2017–2022 period.

Maintenance Fees. CBO estimates that BLM would collect maintenance fees totaling $313 million over the 2017–2022 period. The bill would require the agency to charge a fee of $155 a year to maintain any mining claim that covers 20.66 acres or fewer. In 2015, when BLM was authorized to collect a similar fee and gold was valued at $1,161 per ounce, the agency received payments totaling about $50 million from 325,000 such claims. CBO expects that the price of gold, will return to its 10-year inflation-adjusted average price of $1,211 per ounce in 2019. Based on the historical relationship between the value of gold and the number of outstanding mining claims, CBO estimates that annual fee collections under H.R. 3843 would total $51 million in 2017 and $52 million a year over the 2018–2022 period.

Location Fees. CBO estimates that BLM would collect location fees totaling $5 million over the 2017–2022 period. The bill would require the agency to charge a one-time fee of $37 for any new mining claim established on federal land, including claims larger than 20.66 acres. In 2015, when BLM was authorized to collect a similar fee, the agency received payments totaling roughly $800,000 for 22,000 new claims. CBO estimates that annual fee collections would total around $1 million a year over the 2017–2022 period.

Certification Fees. CBO estimates that BLM would collect certification fees totaling $1 million over the 2017–2022 period. The bill would require the agency to charge a fee of $30 for any claimholder seeking to have the annual maintenance fee waived. Based on information provided by BLM, CBO expects that fewer than 8,500 claimholders would request such waivers each year, and we estimate that annual fee collections would total less than $250,000 each year over the 2017–2022 period.

Revenues

H.R. 3843 would authorize the EPA to issue permits for the cleanup of pollution at inactive and abandoned mine sites. The bill also would establish civil penalties for any person who violates the conditions of a permit. Based on information from the EPA, CBO estimates, that any fines collected under this bill would not be significant.

Spending subject to appropriation

CBO estimates that implementing H.R. 3843 would cost $261 million over the 2017–2021 period and $50 million after 2021, assuming appropriation of the authorized and estimated amounts. Specifically, the bill would:

- Authorize the appropriation of $40 million a year through 2022 to administer certain mining laws, including a program to collect fees from holders of mining claims. In 2016, BLM received an appropriation of $40 million to carry out those activities.

• Authorize the appropriation of $17 million a year through 2020 to carry out a program to clean up inactive coal mining sites. In 2016, ELM received appropriations totaling $20 million to carry out similar activities.

• Require BLM to transfer up to $2 million to the NAS to study the effectiveness of EPA activities related to permitting the cleanup of inactive and abandoned mine sites. Under the bill, NAS could not begin the study until five years after enactment.

Finally, the bill would authorize the EPA to issue permits for the cleanup of pollution at inactive mine sites throughout the United States. Those permits would be issued only to people, companies, or agencies with no legal responsibility for cleaning up the site. Once granted a permit, the permit holder would not be liable for any pollution resulting from the remediation efforts at the mine sites under the Clean Water Act or the Comprehensive Environmental Response, Compensation, and Liability Act. The bill also would enable state and tribal environmental programs to issue the same type of permit to private parties if those governments have an EPA-approved permit process in place.

Under H.R. 3843, the EPA would establish regulations for the permit process, approve plans for state programs, and determine eligibility for permits. Based on information from the EPA, CBO expects that states would provide most permits and that minimal oversight would be required by the EPA. As a result, CBO estimates that implementing title III would cost less than $500,000 annually and would total $1 million over the 2017–2021 period; such spending would be subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3846, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JUNE 15, 2016

	By fiscal year, in millions of dollars—												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016–2021	2021–2026
	NET DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	−52	−53	−53	−53	−53	−53	0	0	0	0	−265	−319

Increase in long term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: H.R. 3843 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would allow state and tribal governments to administer permit programs to encourage the cleanup of abandoned and inactive mine sites. Any costs that state or tribal agencies might incur to administer such permit programs would result from voluntary commitments. Under the bill, those agencies also would be eligible for federal grants to fund cleanup activities.

Estimate prepared by: Federal costs: Jeff LaFave (BLM) and Jon Sperl (EPA); Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of the bill would reduce direct spending by $319M for the 2017–2022 period, while costing $261M to implement over the same time period, assuming appropriation of the authorized amounts.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize for a seven-year period the collection of claim location and maintenance fees.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman believes that this bill does not direct an executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 11, 2016

The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

On June 15, 2016, the Committee on Natural Resources ordered favorably reported as amended H.R. 3843, the Locatable Minerals Claim Location and Maintenance Fees Act. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce.

I ask that you allow the Committee on Transportation and Infrastructure to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Transportation and Infrastructure be represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record.

Thank you for your consideration of my request and for the extraordinary cooperation shown by you and your staff over matters of shared jurisdiction. I look forward to further opportunities to work with you this Congress.

Sincerely,

Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian

Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Christopher P. Bertram, Staff Director

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Katherine W. Dedrick, Democratic Staff Director

August 12, 2016

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 3843, the *Locatable Minerals Claim Location and Maintenance Fees Act of 2015*, which was referred to the Committee on Natural Resources, with an additional referral to the Committees on Energy and Commerce and Transportation and Infrastructure.

I agree to allow the Committee on Transportation and Infrastructure to be discharged from consideration of H.R. 3843 with the understanding that this discharge does not affect the Committee's jurisdiction over the subject matter of the bill, and does not serve as precedent for future referrals. Finally, as stated in your letter, should a conference on the bill be necessary, I fully expect the Committee on Transportation and Infrastructure to be represented on the conference committee.

Thank you for your assistance in this matter and for agreeing to include a copy of this letter in the bill report filed by the Committee on Natural Resources, as well as in the Congressional Record during floor consideration.

Sincerely,

Bill Shuster

Bill Shuster
Chairman

cc: The Honorable Paul D. Ryan
The Honorable Peter A. DeFazio
The Honorable Raúl M. Grijalva
Mr. Thomas J. Wickham, Jr., Parliamentarian

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 23, 2016

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

On June 15, 2015, the Committee on Natural Resources ordered favorably reported as amended H.R. 3843, the Locatable Minerals Claim Location and Maintenance Fees Act. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure.

I ask that you allow the Committee on Energy and Commerce to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Energy and Commerce represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record.

Thank you for your consideration of my request and for the extraordinary cooperation shown by you and your staff over matters of shared jurisdiction. I look forward to further opportunities to work with you this Congress.

Sincerely,

Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
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September 6, 2016

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Bishop:

I write in regard to H.R. 3843, Locatable Minerals Claim Location and Maintenance Fees Act of 2015, which was recently ordered to be reported by the Committee on Natural Resources. As you are aware, the bill also was referred to the Committee on Energy and Commerce. I wanted to notify you that the Committee on Energy and Commerce will forgo action on H.R. 3843 so that it may proceed expeditiously to the House floor for consideration.

This is done with the understanding that the Committee on Energy and Commerce's jurisdictional interests over this and similar legislation are in no way diminished or altered. In addition, the Committee reserves the right to seek conferees on H.R. 3843 and requests your support when such a request is made.

I would appreciate your response confirming this understanding with respect to H.R. 3843 and ask that a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of the bill on the House floor.

Sincerely,

Fred Upton
Chairman

DISSENTING VIEWS

We oppose H.R. 3843 because it potentially greatly expands the rights of mining claimants, limits the growth of the Bureau of Land Management's Abandoned Mine Lands program, and contains a number of concerning policy issues regarding Good Samaritan protections. Fundamentally, while this legislation has grown out of the good intention to try to address abandoned hardrock mine lands, it rests on the flawed premise that voluntary efforts will be enough to meaningfully address a significant number of those abandoned mines. Good Samaritan protections, if properly structured, are a small step towards solving this problem, but a dedicated source of funding provided by the hardrock mining industry—as the coal industry has done for forty years—is absolutely necessary to truly address the roughly half-million abandoned hardrock mines throughout the country.

Section 102(e) of H.R. 3843 appears to provide additional rights to claimants above what they currently possess under the Mining Law of 1872. Currently, miners only hold a right against the government when a valuable mineral deposit is found on their claim. When an area is withdrawn from mining, only claims where valuable deposits can be validated remain in effect. However, the language of 102(e) appears to extend a right against the government *prior to* the discovery of valuable mineral deposits, which may eliminate the ability for withdrawals to supersede invalid claims, and makes it easier for companies to commit claim fraud. Another concern is the broad language of "mineral activities" in Section 101, which appears to allow a variety of non-mining activities to occur on and off of mining claims.

Title II of the bill effectively authorizes the already-existing BLM Abandoned Mine Lands program, but freezes the authorization at current levels through 2020. The current authorization is already inadequate for BLM to meaningfully address abandoned hardrock lands, and is 15 percent below the Administration's requested level. The authorization in the bill would need to be raised significantly in order for BLM to have a fully-functional program.

Title III establishes a Good Samaritan permit program that would provide liability protection from the Clean Water Act (CWA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) for third parties that wish to remediate an abandoned mine site where that party has no legal responsibility or ownership stake in the abandoned mine. While we support Good Samaritan legislation in concept, getting the details right is essential, and we do not believe H.R. 3843 is at that point. The blanket CERCLA and CWA waivers in the bill are too broad and instead should be limited to actions taken in compliance with the Good Samaritan permit. The waiver of the National Environmental Policy Act (NEPA) in Section 307 continues the disturbing

trend of Republicans attempting to weaken or waive NEPA through legislation, and should be removed.

Furthermore, H.R. 3843 allows abandoned mine sites with potentially identifiable responsible parties to receive Good Samaritan permits. Only sites that are truly abandoned, and for which there are no potentially responsible parties, should be eligible for such permits. Allowing current mine site owners to become Good Samaritans is also potentially problematic because of the limited number of safeguards against remining at sites with Good Samaritan permits. In addition, H.R. 3843 would create a new, standalone environmental statute without providing the fundamental protections of citizen suit provisions. The right of citizens to enforce environmental laws through citizen suits is essential to effective enforcement of our Nation's environmental laws.

For these reasons, we oppose H.R. 3843.

RAÚL GRIJALVA,
Ranking Member, Committee on Natural Resources.
ALAN LOWENTHAL,
Ranking Member, Subcommittee on Energy and Mineral Resources.
GRACE NAPOLITANO.
JARED POLIS.

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