



2020 Update and 2021
Outlook from a Good Sam
Perspective

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2021 MMSA AML Virtual Summit



- ✦ A Good Samaritan is a person/entity voluntarily cleaning up contamination at an Orphan Mine Site under CERCLA
 - Seeking liability protection for increasingly complex or multi-stakeholder projects
 - Historically TU has obtained Comfort Letters, AOCs, or partnered on AM with lead agency
 - Looking to streamline or create a more standardized approach when taking on AML projects
 - Move away from PRP mindset
 - Advocate for Good Sam legislation while continuing to complete AML reclamation projects



History of TU Good Samaritan Projects



AOC Projects:

- American Fork Canyon, UT – Pacific Mine – 2004
- Kerber Creek – Villa Grove, CO – 2010
 - \$10K in legal fees and 6+ months for development
- Atlas Mine/Mill – Ouray, CO - 2020



Comfort Letter Projects:

- Tiger Mine – Leadville, CO – 2013
- Illinois Gulch/Mountain Pride – Breckenridge, CO – 2017
- Evans Gulch – Leadville, CO - 2018
 - \$1-2K in legal fees and 3 months for final and design approval letter

Outlook – 5/6 Good Sam projects in next two years

- Gilson Gulch, Balarat, Orphan Boy, Governor Basin, Forest Queen, ??

FY 2020 Program Totals



- Question: Has everyone felt over-worked and overwhelmed this past year?
- Initial COVID uncertainties led to programs largest field season
 - Nine Projects = \$1.23 Million in Construction
 - Continued NGO Role on MO sites bringing essential funding and capacity
 - One of first Good Sam ASAOCs with USFS
 - Another nine on-the-ground projects planned for 2021 const. season
 - Expanding organizational capacity to local watershed groups and other States



2020 Case Study - Atlas Mine/Mill – Ouray, CO



- ✦ Focused cleanup on reducing likelihood of migrating hazardous substances offsite.
- ✦ Reclamation totals of three Tasks:
 - 1,689 linear feet of run-on/run-off channels were installed
 - 200 linear feet of Sneffels Creek restored and stabilized.
 - 4.2 acres of mine wastes/tailings consolidated, reclaimed and revegetated.



2020 Restoration: Waldorf Mine



- Waldorf Mine is located above Leavenworth Creek, a headwater stream flowing into South Clear Creek, a drinking water source for Georgetown.
- Large tailings mass at Waldorf interacts between continuously-flowing adit water, surface/storm water and upwelling groundwater to create ARD and mobilize metals.
- 2020 construction represents culmination of 7 years of partnership between TU, USFS, DRMS, USGS, EPA, CDPHE private donors and local community in Leavenworth Creek.



2020 Restoration: Waldorf Mine



2020 Construction SOW Included:

- Construction of drainage ditches and preferential flow paths to move surface and groundwater away from tailings
- Installation of five constructed wetlands along, and below, tailings pile
- Revegetation of disturbed lands
- Application of spray-on erosion control product on tailings pile
- Access controls on USFS land to reduce visitor interaction with tailings



Barriers Encountered During Reclamation Work?



- ✍ Funding involving State/EPA pass-through opportunities are non-existent
- ✍ Since MOU expired between EPA/State of Colorado funding opportunities through historically reliable channels have evaporated
 - This not only hurts larger NGOs, but local watershed groups as well
 - Missing out on opportunities to pair those funds with other Federal dollars already in place

- ✦ A seat at the table: Better outcomes are achieved if Good Sams are more involved in the agencies' site-specific discussions.
 - Portfolio of over 40 AML projects in Colorado alone can offer additional viewpoints for cleanup options
 - As non-profit we can offer cheaper, efficient solutions to AML reclamation given limited funding on some projects
- ✦ CWA Exposure
 - Consider granting CWA Covenants in CERCLA agreements; including discharges of pollutants within the agreement's "matters addressed"
 - Still the question of post-cleanup exposure

- ☛ Small Things:
 - Too much reliance on guidance and policy on some issues; too little on others.
 - Timing
- ☛ Mixed ownership sites present significant jurisdictional questions for the agencies.
 - Delegation of authorities – This has been incredibly helpful and will hopefully gain momentum
- ☛ Good Sam AOCs, Comfort Letters, and BFPP agreements are premised on PRP models.
 - Financial assurances; work takeover; sometimes even stipulated penalties.
 - Is there a need for DOJ Concurrence?
 - “Enforcement Mindset.” – TU is a partner skilled in CERCLA cleanups, not a PRP.

Two Crucial Pieces Needed for AML Cleanup Progress in 2021



- ✦ Funding and Better CWA liability protections.
 - While non-point source projects have been successful, a larger effort including point source sites needs legislative CWA protections along with dedicated funding.
 - Federal Funding Efforts: Infrastructure Bill and/or Independent Outdoor Bill – Create dedicated AML funding that would fill voids for projects.
 - Recent Good Sam legislative efforts present building blocks worth carrying forward into the new political landscape
 - 2018 bill would establish 15 project pilot program. Use as starting point
 - Narrow, targeted relief for Good Sams from CWA and CERCLA.
 - Pilot would prove-up concept and show that Good Samaritan mine cleanups are effective before making permanent changes to federal law.
 - Recent bipartisan support led by Sen. Heinrich (NM) with potential support from Sen. Risch (ID).
 - Draft bill in next month?

- ✦ Without liability protections, additional funding won't fully address the problem. Both liability protections and funding will be crucial to tackle AML cleanups, especially point sources.



Including the Importance of AML Reclamation and Local Economies



- While agencies depend on non-local START contractors, TU looks local
 - Monarch Gravel Mine: \$85,636 in construction costs
 - \$12,345 went to local business and economy of Salida
 - \$22,715 to materials from five Colorado suppliers
 - Remaining \$50,576 to Frontier Environmental Services that included CO based equipment rentals
 - Atlas Mine/Mill: \$177,026.04 in construction costs
 - \$14,744.19 went to local business and economy of Ouray/Ridgway
 - \$64,369.73 to materials from six Colorado suppliers
 - Remaining portion to Reams Construction out of Naturita, CO



Questions/Comments?

Thank You! – Jason Willis – jason.willis@tu.org & TU Team (Lauren Duncan and Tanner Banks)

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Motto: Our AML work is clean-enough for your... Dog...

