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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 2937

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LAHOOD introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Community Reclama-
3 tion Partnerships Act”.

4 **SEC. 2. REFERENCE.**

5 Except as otherwise specifically provided, whenever in
6 this Act an amendment is expressed in terms of an amend-
7 ment to a provision, the reference shall be considered to
8 be made to a provision of the Surface Mining Control and
9 Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

10 **SEC. 3. STATE MEMORANDA OF UNDERSTANDING FOR CER-**
11 **TAIN REMEDIATION.**

12 (a) **MEMORANDA AUTHORIZED.**—Section 405 (30
13 U.S.C. 1235) is amended by inserting after subsection (l)
14 the following:

15 “(m) **STATE MEMORANDA OF UNDERSTANDING FOR**
16 **REMEDICATION OF MINE DRAINAGE.**—

17 “(1) **IN GENERAL.**—A State with a State pro-
18 gram approved under subsection (d) may enter into
19 a memorandum of understanding with relevant Fed-
20 eral or State agencies (or both) to remediate mine
21 drainage on abandoned mine land and water im-
22 pacted by abandoned mines within the State. The
23 memorandum may be updated as necessary and re-
24 submitted for approval under this subsection.

25 “(2) **MEMORANDA REQUIREMENTS.**—Such
26 memorandum shall establish a strategy satisfactory

1 to the State and Federal agencies that are parties
2 to the memorandum, to address water pollution re-
3 sulting from mine drainage at sites eligible for rec-
4 lamation and mine drainage abatement expenditures
5 under section 404, including specific procedures
6 for—

7 “(A) ensuring that activities carried out to
8 address mine drainage will result in improved
9 water quality;

10 “(B) monitoring, sampling, and the report-
11 ing of collected information as necessary to
12 achieve the condition required under subpara-
13 graph (A);

14 “(C) operation and maintenance of treat-
15 ment systems as necessary to achieve the condi-
16 tion required under subparagraph (A); and

17 “(D) other purposes, as considered nec-
18 essary by the State or Federal agencies, to
19 achieve the condition required under subpara-
20 graph (A).

21 “(3) PUBLIC REVIEW AND COMMENT.—

22 “(A) IN GENERAL.—Before a submitting a
23 memorandum to the Secretary and the Admin-
24 istrator for approval, a State shall—

1 “(i) invite interested members of the
2 public to comment on the memorandum;
3 and

4 “(ii) hold at least one public meeting
5 concerning the memorandum in a location
6 or locations reasonably accessible to per-
7 sons who may be affected by implementa-
8 tion of the memorandum.

9 “(B) NOTICE OF MEETING.—The State
10 shall publish notice of each meeting not less
11 than 15 days before the date of the meeting, in
12 local newspapers of general circulation, on the
13 Internet, and by any other means considered
14 necessary or desirable by the Secretary and the
15 Administrator.

16 “(4) SUBMISSION AND APPROVAL.—The State
17 shall submit the memorandum to the Secretary and
18 the Administrator of the Environmental Protection
19 Agency for approval. The Secretary and the Admin-
20 istrator shall approve or disapprove the memo-
21 randum within 120 days after the date of its sub-
22 mission if the Secretary and Administrator find that
23 the memorandum will facilitate additional activities
24 under the State Reclamation Plan under subsection
25 (e) that improve water quality.

1 “(5) TREATMENT AS PART OF STATE PLAN.—

2 A memorandum of a State that is approved by the
3 Secretary and the Administrator under this sub-
4 section shall be considered part of the approved
5 abandoned mine reclamation plan of the State.

6 “(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

7 “(1) PROJECT APPROVAL.—Within 120 days
8 after receiving such a submission, the Secretary
9 shall approve a Community Reclaimer project to re-
10 mediate abandoned mine lands if the Secretary finds
11 that—

12 “(A) the proposed project will be con-
13 ducted by a Community Reclaimer as defined in
14 this subsection or approved subcontractors of
15 the Community Reclaimer;

16 “(B) for any proposed project that remedi-
17 ates mine drainage, the proposed project is con-
18 sistent with an approved State memorandum of
19 understanding under subsection (m);

20 “(C) the proposed project will be con-
21 ducted on a site or sites inventoried under sec-
22 tion 403(e);

23 “(D) the proposed project meets all sub-
24 mission criteria under paragraph (2);

1 “(E) the relevant State has entered into an
2 agreement with the Community Reclaimer
3 under which the State shall assume all respon-
4 sibility with respect to the project for any costs
5 or damages resulting from any action or inac-
6 tion on the part of the Community Reclaimer in
7 carrying out the project, except for costs or
8 damages resulting from gross negligence or in-
9 tentional misconduct by the Community Re-
10 claimer, on behalf of—

11 “(i) the Community Reclaimer; and

12 “(ii) the owner of the proposed project
13 site;

14 if such Community Reclaimer or owner, respec-
15 tively, did not participate in any way in the cre-
16 ation of site conditions at the proposed project
17 site or activities that caused any lands or wa-
18 ters to become eligible for reclamation or drain-
19 age abatement expenditures under section 404;

20 “(F) the State has the necessary legal au-
21 thority to conduct the project and will obtain all
22 legally required authorizations, permits, li-
23 censes, and other approvals to ensure comple-
24 tion of the project;

1 “(G) the State has sufficient financial re-
2 sources to ensure completion of the project, in-
3 cluding any necessary operation and mainte-
4 nance costs (including costs associated with
5 emergency actions covered by a contingency
6 plan under paragraph (2)(K)); and

7 “(H) the proposed project is not in a cat-
8 egory of projects that would require a permit
9 under title V.

10 “(2) PROJECT SUBMISSION.—The State shall
11 submit a request for approval to the Secretary that
12 shall include—

13 “(A) a description of the proposed project,
14 including any engineering plans that must bear
15 the seal of a Professional Engineer;

16 “(B) a description of the proposed project
17 site or sites, including, if relevant, the nature
18 and extent of pollution resulting from mine
19 drainage;

20 “(C) identification of the past and current
21 owners and operators of the proposed project
22 site;

23 “(D) the agreement or contract between
24 the relevant State and the Community Re-
25 claimer to carry out the project;

1 “(E) a determination that the project will
2 facilitate the activities of the State reclamation
3 plan under subsection (e);

4 “(F) sufficient information to determine
5 whether the Community Reclaimer has the
6 technical capability and expertise to successfully
7 conduct the proposed project;

8 “(G) a cost estimate for the project and
9 evidence that the Community Reclaimer has
10 sufficient financial resources to ensure the suc-
11 cessful completion of the proposed project (in-
12 cluding any operation or maintenance costs);

13 “(H) a schedule for completion of the
14 project;

15 “(I) an agreement between the Community
16 Reclaimer and the current owner of the site
17 governing access to the site;

18 “(J) sufficient information to ensure that
19 the Community Reclaimer meets the definition
20 under paragraph (3);

21 “(K) a contingency plan designed to be
22 used in response to unplanned adverse events
23 that includes emergency actions, response, and
24 notifications; and

1 “(L) a requirement that the State provide
2 notice to adjacent and downstream landowners
3 and the public and hold a public meeting near
4 the proposed project site before the project is
5 initiated.

6 “(3) COMMUNITY RECLAIMER DEFINED.—For
7 purposes of this section, the term ‘Community Re-
8 claimer’ means any person who—

9 “(A) seeks to voluntarily assist a State
10 with a reclamation project under this section;

11 “(B) did not participate in any way in the
12 creation of site conditions at the proposed
13 project site or activities that caused any lands
14 or waters to become eligible for reclamation or
15 drainage abatement expenditures under section
16 404;

17 “(C) is not a past or current owner or op-
18 erator of any site with ongoing reclamation obli-
19 gations; and

20 “(D) is not subject to outstanding viola-
21 tions listed pursuant to section 510(e).”.

22 **SEC. 4. CLARIFYING STATE LIABILITY FOR MINE DRAINAGE**
23 **PROJECTS.**

24 Section 413(d) (30 U.S.C. 1242(d)) is amended in
25 the second sentence by inserting “unless such control or

1 treatment will be conducted in accordance with a State
2 memorandum of understanding approved under section
3 405(m) of this Act” after “Control Act” the second place
4 it appears.

5 **SEC. 5. CONFORMING AMENDMENTS.**

6 Section 405(f) (30 U.S.C. 1235(f)) is amended—

7 (1) by striking the “and” after the semicolon in
8 paragraph (6);

9 (2) by striking the period at the end of para-
10 graph (7) and inserting “; and”; and

11 (3) by inserting at the end the following:

12 “(8) a list of projects proposed under sub-
13 section (n).”.