



THE WEEKLY CLOSER

U.S. SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
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THE WEEK IN REVIEW...

- OPENING STATEMENT: SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT OVERSIGHT OF THE SUPERFUND PROGRAM
- OPENING STATEMENT: HEARING TO CONSIDER WHETHER POTENTIAL LIABILITY DETERS ABANDONED HARD ROCK MINE CLEAN UP

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- BI-PARTISAN SUPPORT FOR GOOD SAMARITAN LEGISLATION

IN CASE YOU MISSED IT...

- SCIENTISTS RESPOND TO GORE'S WARNINGS OF CLIMATE CATASTROPHE (BY TOM HARRIS, GUEST COLUMNIST, CANADA FREE PRESS, MONDAY JUNE 12, 2006)

NEXT WEEK

June 21, 2006

Full committee hearing on inherently safer technology in the context of chemical site security.

9:30 am

QUOTES OF THE WEEK...

“We have a window of opportunity to accomplish a “win-win” solution for the environment and the taxpayers. I intend to continue working with you, Senator Salazar, and our colleagues in the Senate and the House in developing legislation this session to allow for deliberate and conscientious abandoned mine land clean-ups.”

US Senator Wayne Allard (R-CO)
Opening Statement
Hearing To Consider Whether Potential Liability Deters Abandoned Hard Rock Mine Clean Up
June 14, 2006

“Passing this bill [S.1848, Salazar- Allard Good Samaritan Bill] would be a great step forward for Colorado and Western states. For too long we in the West have been frustrated by the legacy of mining, stymied by liability schemes that focus primarily on who is responsible for what, rather than on developing a practical solution to the problem. The truth is that because we have all benefited, and continue to benefit, from resource extraction, we share a responsibility for cleaning up our land and our water. In the end, we will be judged not by who we find liable to clean these sites, but by whether we get them cleaned up for our children and our grandchildren.”

US Senator Ken Salazar (D-CO)
Opening Statement
Hearing To Consider Whether Potential Liability Deters Abandoned Hard Rock Mine Clean Up
June 14, 2006

OPENING STATEMENT: SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT OVERSIGHT OF THE SUPERFUND PROGRAM

June 15, 2006

I want to start off by thanking the Subcommittee Chairman John Thune for holding this hearing. Superfund was passed in 1980 and was at the time a step forward in dealing with environmental issues plaguing our country. We have learned a great deal since this legislation was passed and hope this hearing today will allow us to expose some strengths and weaknesses in this important yet complex issues.

SD-628

[June 22, 2006](#)

Subcommittee on Clean Air, Climate Change, and Nuclear Safety oversight hearing on the regulatory processes for new and existing nuclear plants.

9:30 am

SD-628

EPW RESOURCES

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As most on this committee know by now, the number one Superfund site in the entire country is in my home state of Oklahoma – known as Tar Creek. We have made significant progress at Tar Creek since I became Chairman. Much of that progress was due to getting the federal agencies under EPW's jurisdiction to finally work together to remove the obstructions that had stalled clean up efforts. The lack of cooperation within the Federal family prior to my Chairmanship was simply unacceptable. In my view if the bureaucracy of these agencies would work in a collaborate effort then the sites could be restored at a much higher rate than is currently being accomplished.

My friends across the aisle will argue the only way to ensure a long term clean-up solution would be to reinstate the Superfund tax so that the “polluter pays” for the cost. I, like the administration, support the polluter pays standard under the current Superfund law. When a polluter can be identified that can pay, they are held liable for the damages. This has meant that about 70 percent of Superfund sites are cleaned up by the polluters without the involvement of government revenues. Other sites that are initially cleaned up by EPA are paid for from costs later recovered from the parties that contributed to the cause of the pollution. At a marginal number of these sites, responsible parties who contributed to the contamination have gone out of business or do not have assets to contribute to the clean-up. The government prioritizes and funds the cleanup at such sites out of general revenues from all taxpayers and Superfund Trust Fund balances to assure protection of public health.

Some will argue that because of no tax, sites are unfunded and therefore those communities are at risk. The truth behind this statement is that local communities are not at risk. Sites are funded based on the risks they pose, meaning that the most unstable sites receive a priority designation on funding. This is how EPA has always determined funding, regardless of Administrations. EPA focuses dollars where they are needed most. The Administration has displayed a strong financial commitment to Superfund and I support the current Superfund budget request.

I believe the reinstatement of any type of Superfund tax would create an inequitable burden on those companies that are within the law. The various funding methods are now working and to impose such a tax on businesses to raise money to put into a trust fund would serve as a general inhibitor on business development throughout our country. This tax would fall on businesses already paying for their own cleanups or that has never created a Superfund site and would put a burden on those companies to pay for cleanups on sites they had nothing to do with.

Critics would have those already doing their part pay twice and have the very small number of those who did contribute to the problem transfer their burden to everyone. Both Democratic and Republican controlled Congresses have rejected such an unfair approach, now that the recovery scheme that enforces the polluter pays principle is fully in place and working.

I believe that with renewed commitment from the administration in cutting down bureaucratic hurdles that are impeding clean-up and improved communication between agencies, the administration can make great strides in cleaning up these sites without putting great hardships on businesses not liable

for these environmental damages.

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OPENING STATEMENT: HEARING TO CONSIDER WHETHER POTENTIAL LIABILITY DETERS ABANDONED HARD ROCK MINE CLEAN UP

June 14, 2006

It has been six years since the Environment and Public Works Committee has held a hearing on the issue of whether liability concerns are a deterrent to the clean up of abandoned hardrock mines. In reviewing that hearing's testimony, I was struck by the fact that both Senator Mike Crapo, the former Chairman of the Subcommittee on fisheries, wildlife and water as well as Senator Baucus, former Chairman of the EPW Committee, both asked that we not let the perfect be the enemy of the good. Here we are six years and several legislative proposals later and I fear that is exactly what has happened and what will continue to happen.

We've come here today to find common ground as to how exactly liability fears are causing good samaritans to walk away from cleaning up abandoned mines. It is estimated that there are over 500,000 abandoned hardrock mine sites littering our country and the Western Governors Association estimates that nearly 20 percent of them are posing significant risks to the waterways into which they discharge.

It is particularly important to understand what an abandoned hardrock mine is. These are mines from the gold rush era and mines that produced the ores and metals needed to build weapons during World War II. They are also mines that were abandoned long before modern environmental laws were enacted. Interestingly it is those very laws that have protected our natural resources for so many years that may in fact be hindering the restoration of some of the states' waterways. This was certainly never the intent. John Whitaker, President Nixon's Undersecretary for the Environment noted, "We did not envision at the time that the day would come when the zero discharge provision [of the Clean Water Act] would prevent Good Samaritans from cleaning up acid mine drainage or when the onerous and costly federal permit requirements would snuff out any economic incentive to curb the acid mine drainage problem associated with abandoned mines." (Center for American West, page 23).

In light of the potential magnitude of the problem, if we were to enact legislation, we must broadly define a "Good Samaritan" so that as many innocent parties as possible can participate while taking necessary precautions to ensure that those who may have had any role in the mining of these sites are held legally and financially accountable. No one here today proposes to violate the polluter pays principal in which we all so firmly believe.

I was pleased to introduce by request the Administration's Good Samaritan legislative proposal. As part of the President's commitment to cooperative conservation, the Administration has put forth a proposal to address the

liability concerns of potential Good Samaritans. The Bush Administration is following on support by the Clinton Administration for the concept of addressing these liability issues. As Charles Fox, Clinton's Assistant Administrator for Water testified in 2000 on Senator Baucus' Good Samaritan legislation: "Unfortunately, there are limitations under the CWA that often hamper remediation and restoration activities at abandoned mine sites. In particular, the permitting requirements under Section 402 of the CWA require that the permittee meet all of the requirements and effluent discharge limits set out in their discharge permit. These discharge limits include water quality standards that have been established for the body of water into which the treated effluent is discharged. In addition, these requirements mean anyone conducting reclamation or remediation at an abandoned mine site may become liable for any continuing discharges from that site." Further, there have been bipartisan bills introduced in each of the past three Congresses and the only person on all three bills was the Senator Minority Leader, Harry Reid. For three Congresses and two Administrations there has been bipartisan consensus that liability is a factor affecting these cleanups and clearly Senator Reid agrees that we can't let the perfect be the enemy of the good.

We will hear today from a potential Good Samaritan who had funding available to cleanup a mine but opted not to out of fear of liability. We also hear from the mining industry that may be better suited than anyone to be a Good Samaritan. Today's mining industry is not responsible for the practices of several generations ago. They have the expertise, knowledge and resources to be able to effectively, quickly and cost-efficiently restore more of these sites than potentially any other group.

We have been presented with a unique opportunity thanks in large part to the Administration's proposal and to our two fellow Senators Wayne Allard and Ken Salazar who came together to craft a bipartisan bill. Their bill is cosponsored by two EPW Committee members, Senator Baucus and Senator Isakson. To put the final piece in place, our colleagues in the House have already held a hearing on the issue. There is now more momentum behind addressing this problem and restoring thousands of waterways than ever before. However, we must be sure that other non-related issues involving Superfund do not end up killing this opportunity. I urge all of those concerned about clean, fishable, swimmable waters to help Congress seize this great opportunity and pass a Good Samaritan law this year.

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DID YOU KNOW?

BI-PARTISAN SUPPORT FOR GOOD SAMARITAN LEGISLATION

New bi-partisan support for Good Samaritan legislation currently in the United States Senate could mean the clean up of thousands of abandoned hardrock mines across the nation. According to the Environmental Protection Agency (EPA), it is estimated that there are more than 500,000 abandoned mine sites in the Western United States.

Fact: Legislative proposals by [President Bush](#) and Colorado [Senators' Allard and Salazar](#) have gained broad bi-partisan support. Patty Limerick of the Center of the American West has called the Good Samaritan concept "one of humanity's best ideas." Stakeholder groups such as the Western Business Roundtable, Trout Unlimited and the National Mining Association all agree with the approach. Already, Chairman Inhofe, Sen. Harry Reid (D-NV), Sen. Max Baucus (D-MT), and Sen. Johnny Isakson (R-GA) have pledged their support for passing Good Samaritan legislation this year. With such overwhelming bi-partisan support, now is the time to pass legislation that will help promote and facilitate the cleanup of the estimated 500,000 abandoned hardrock mines and provide another major environmental victory for our country.

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IN CASE YOU MISSED IT...

Canada Free Press

SCIENTISTS RESPOND TO GORE'S WARNINGS OF CLIMATE CATASTROPHE

"THE INCONVENIENT TRUTH" IS INDEED INCONVENIENT TO ALARMISTS

By Tom Harris
Monday, June 12, 2006

"Scientists have an independent obligation to respect and present the truth as they see it," Al Gore sensibly asserts in his film "An Inconvenient Truth", showing at Cumberland 4 Cinemas in Toronto since Jun 2. With that outlook in mind, what do world climate experts actually think about the science of his movie?

Professor Bob Carter of the Marine Geophysical Laboratory at James Cook University, in Australia gives what, for many Canadians, is a surprising assessment: "Gore's circumstantial arguments are so weak that they are pathetic. It is simply incredible that they, and his film, are commanding public attention."

But surely Carter is merely part of what most people regard as a tiny cadre of "climate change skeptics" who disagree with the "vast majority of scientists" Gore cites?

No; Carter is one of hundreds of highly qualified non-governmental, non-industry, non-lobby group climate experts who contest the hypothesis that human emissions of carbon dioxide (CO₂) are causing significant global climate change. "Climate experts" is the operative term here. Why? Because what Gore's "majority of scientists" think is immaterial when only a very small fraction of them actually work in the climate field.

Even among that fraction, many focus their studies on the impacts of climate change; biologists, for example, who study everything from insects to polar bears to poison ivy. "While many are highly skilled researchers, they generally do not have special knowledge about the causes of global climate change," explains former University of Winnipeg climatology professor Dr. Tim Ball. "They usually can tell us only about the effects of changes in the local environment where they conduct their studies."

This is highly valuable knowledge, but doesn't make them climate change cause experts, only climate impact experts.

So we have a smaller fraction.

But it becomes smaller still. Among experts who actually examine the causes of change on a global scale, many concentrate their research on designing and enhancing computer models of hypothetical futures. "These models have been consistently wrong in all their scenarios," asserts Ball. "Since modelers concede computer outputs are not "predictions" but are in fact merely scenarios, they are negligent in letting policy-makers and the public think they are actually making forecasts."

We should listen most to scientists who use real data to try to understand what nature is actually telling us about the causes and extent of global climate change. In this relatively small community, there is no consensus, despite what Gore and others would suggest...

Appearing before the Commons Committee on Environment and Sustainable Development last year, Carleton University paleoclimatologist Professor Tim Patterson testified, "There is no meaningful correlation between CO₂ levels and Earth's temperature over this [geologic] time frame. In fact, when CO₂ levels were over ten times higher than they are now, about 450 million years ago, the planet was in the depths of the absolute coldest period in the last half billion years." Patterson asked the committee, "On the basis of this evidence, how could anyone still believe that the recent relatively small increase in CO₂ levels would be the major cause of the past century's modest warming?"

Patterson concluded his testimony by explaining what his research and "hundreds of other studies" reveal: on all time scales, there is very good correlation between Earth's temperature and natural celestial phenomena such changes in the brightness of the Sun.

Dr. Boris Winterhalter, former marine researcher at the Geological Survey of Finland and professor in marine geology, University of Helsinki, takes apart Gore's dramatic display of Antarctic glaciers collapsing into the sea. "The breaking glacier wall is a normally occurring phenomenon which is due to the normal advance of a glacier," says Winterhalter. "In Antarctica the temperature is low enough to prohibit melting of the ice front, so if the ice is grounded, it has to break off in beautiful ice cascades. If the water is deep enough icebergs will form."

Dr. Wibjörn Karlén, emeritus professor, Dept. of Physical Geography and

Quaternary Geology, Stockholm University, Sweden, admits, "Some small areas in the Antarctic Peninsula have broken up recently, just like it has done back in time. The temperature in this part of Antarctica has increased recently, probably because of a small change in the position of the low pressure systems."

But Karlén clarifies that the 'mass balance' of Antarctica is positive - more snow is accumulating than melting off. As a result, Ball explains, there is an increase in the 'calving' of icebergs as the ice dome of Antarctica is growing and flowing to the oceans. When Greenland and Antarctica are assessed together, "their mass balance is considered to possibly increase the sea level by 0.03 mm/year - not much of an effect," Karlén concludes.

The Antarctica has survived warm and cold events over millions of years. A meltdown is simply not a realistic scenario in the foreseeable future.

Gore tells us in the film, "Starting in 1970, there was a precipitous drop-off in the amount and extent and thickness of the Arctic ice cap." This is misleading, according to Ball: "The survey that Gore cites was a single transect across one part of the Arctic basin in the month of October during the 1960s when we were in the middle of the cooling period. The 1990 runs were done in the warmer month of September, using a wholly different technology."

Karlén explains that a paper published in 2003 by University of Alaska professor Igor Polyakov shows that, the region of the Arctic where rising temperature is supposedly endangering polar bears showed fluctuations since 1940 but no overall temperature rise. "For several published records it is a decrease for the last 50 years," says Karlén

Dr. Dick Morgan, former advisor to the World Meteorological Organization and climatology researcher at University of Exeter, U.K. gives the details, "There has been some decrease in ice thickness in the Canadian Arctic over the past 30 years but no melt down. The Canadian Ice Service records show that from 1971-1981 there was average, to above average, ice thickness. From 1981-1982 there was a sharp decrease of 15% but there was a quick recovery to average, to slightly above average, values from 1983-1995. A sharp drop of 30% occurred again 1996-1998 and since then there has been a steady increase to reach near normal conditions since 2001."

Concerning Gore's beliefs about worldwide warming, Morgan points out that, in addition to the cooling in the NW Atlantic, massive areas of cooling are found in the North and South Pacific Ocean; the whole of the Amazon Valley; the north coast of South America and the Caribbean; the eastern Mediterranean, Black Sea, Caucasus and Red Sea; New Zealand and even the Ganges Valley in India. Morgan explains, "Had the IPCC used the standard parameter for climate change (the 30 year average) and used an equal area projection, instead of the Mercator (which doubled the area of warming in Alaska, Siberia and the Antarctic Ocean) warming and cooling would have been almost in balance."

Gore's point that 200 cities and towns in the American West set all time high temperature records is also misleading according to Dr. Roy Spencer, Principal

Research Scientist at The University of Alabama in Huntsville. "It is not unusual for some locations, out of the thousands of cities and towns in the U.S., to set all-time records," he says. "The actual data shows that overall, recent temperatures in the U.S. were not unusual"...

In April sixty of the world's leading experts in the field asked Prime Minister Harper to order a thorough public review of the science of climate change, something that has never happened in Canada. Considering what's at stake - either the end of civilization, if you believe Gore, or a waste of billions of dollars, if you believe his opponents - it seems like a reasonable request.

Tom Harris is mechanical engineer and Ottawa Director of High Park Group, a public affairs and public policy company.

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Marc Morano, Communications Director
Matthew Dempsey, Press Secretary
