

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

June 20, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff—Joshua Hoffman, Ashley Nichols
Subcommittee on Energy and Mineral Resources (x5-9297)

Mark-Up: **H.R. 2937 (Rep. Darin LaHood)** 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.
June 22 & 27, 2017; 1324 Longworth HOB

H.R. 2937 (Rep. Darin LaHood, R-IL), “Community Reclamation Partnerships Act”

Summary of the Bill

This legislation seeks to facilitate mine reclamation at SMCRA Title IV eligible abandoned coal mine sites by enabling non-governmental entities to participate in the reclamation of abandoned mine lands and contribute their own resources towards such projects.

Currently, states and potential Community Reclaimers seeking to treat water pollution resulting from abandoned mine sites face significant liability and compliance responsibility under the Clean Water Act (CWA). In most cases, returning an abandoned mine site to conditions that will meet CWA standards is simply infeasible. To account for this challenge, some states have established strategies describing how the state will carry out their responsibilities under the CWA. These strategies provide a tentative path forward for the states for improving the environmental conditions at the site.

Cosponsors

None at introduction.

Background

Thousands of inactive coal mines, abandoned before the era of modern regulation, can be found in communities across the United States. Today, over **\$10.5 billion** worth of abandoned mine sites remain, each of which has no living responsible party.¹ Many of these abandoned

¹ U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. “Cost Summary National.” Abandoned Mine Land Inventory System (AMLIS). <https://amlis.osmre.gov/CannedReport.aspx> Accessed May 16, 2017.

mines pose health and safety risks or environmental hazards to the surrounding communities, burdening landowners and inhibiting opportunities for further development.

While the states are responsible for reclaiming these abandoned mine sites and undertake numerous cleanup projects every year, the need for reclamation in coal communities has encouraged non-governmental organizations (NGOs) to contribute their resources towards these much-needed projects. These NGOs are willing to partner with states on these abandoned mine land projects, but are hindered by several hurdles that prevent their participation, including potential liability and compliance responsibilities with respect to mine drainage treatment projects.

This legislation formally recognizes non-governmental entities that wish to participate in a state reclamation program as “Community Reclaimers.” The bill minimizes undeserved liability for these partners by enabling the state to assume responsibility for all Community Reclaimer projects, just as they currently do for approved Abandoned Mine Land (AML) contractors.

This legislation would also statutorily recognize agreements between states and Federal agencies establishing approved acid mine drainage (AMD) abatement practices at abandoned mine sites. Community Reclaimers would be able to execute these projects in accordance with the relevant state agreements.

Abandoned Mine Land Program and Inventory of Remaining Sites

For over 200 years, from the time the first commercial coal mine was operated in the 1740s until the 1970s, there were no regulations governing environmental standards for mined areas once they were no longer in service.² As a result, many of these mines were abandoned without being properly reclaimed.

To address the multitude of abandoned mine sites across the country, Congress enacted the Surface Mining Reclamation and Enforcement Act of 1977 (SMCRA). SMCRA established the AML Program for the reclamation of abandoned coal mines, as well as a regulatory program governing the operation and reclamation of active surface mines. The AML program specifically seeks to address mine sites that were abandoned before the law’s enactment on August 3, 1977, focusing primarily on sites that pose hazards to life and property.³

The Office of Surface Mining Reclamation and Enforcement (OSMRE) is the agency responsible for implementing the AML program and administering the AML Fund. States and Tribes receive grants and disbursements from the AML Fund to operate their respective AML programs, maintain an inventory of existing AML sites, and reclaim abandoned mines that pose threats to the surrounding communities. The AML Fund is supported by fees paid by coal

² U.S. Department of Energy. “A Brief History of Coal Use.” Fossil Energy Office of Communications. https://fossil.energy.gov/education/energylessons/coal/coal_history.html Accessed May 16, 2017.

³ U.S. Department of the Interior. Office of Surface Mining Reclamation & Enforcement. “Chronology of Major SMCRA-Related Events.” <https://www.osmre.gov/lrg/chronlisting.shtm> Accessed May 16, 2017.

operators on each ton of coal produced, which are then reallocated to states and tribes based on a complex distribution formula.⁴ This reclamation fee is currently set to expire in 2021.⁵

Presently, 28 states and tribes, known as Primacy States, regulate surface mining operations within the state, manage their own AML programs and receive disbursements from the AML Fund. Primacy States are classified as either certified states, which have certified that they have reclaimed all abandoned coal mines within their borders, or uncertified states, which still have remaining sites to reclaim. Most uncertified states are in the Eastern part of the country, where much of the early mining activity in the U.S. took place. Reclamation work has also been conducted in other non-primacy states and tribes, which do not manage their own reclamation programs. There are currently 11 states and 14 Indian tribes classified as non-Primacy.⁶

Since 1977, over \$10.5 billion in mining fees have been deposited into the AML fund. The Department of the Interior has distributed over \$8 billion from the AML fund for the reclamation of abandoned mine lands, the administration of grants to states and tribes, and distributions to United Mine Workers of America retiree healthcare and pension plans.⁷

To date, almost \$4 billion has been spent completing over 11,000 mine reclamation projects. Over 4,200 reclamation projects are currently being conducted and 6,650 sites have yet to be reclaimed.⁸ These remaining sites represent more than \$10.5 billion in outstanding reclamation work, including \$4 billion worth of high priority sites.⁹

It is important to note that not all existing AML sites are catalogued in the inventory systems managed by the states and OSMRE. While some unlisted sites are simply unknown to the AML programs, additional sites are deliberately not listed in the inventory because they do not pose threats to nearby communities. These low priority or previously unknown sites may become reclamation priorities as new residential and commercial developments are constructed in their vicinity, or as the conditions of the mines continue to deteriorate.

Acid Mine Drainage Abatement Challenges

Many states, particularly those in the Eastern U.S., face the unique challenge of addressing discharges of (AMD) from abandoned mine sites. AMD is acidic water that has been contaminated with heavy metals due to past coal mining activity. When water reacts with rocks

⁴ U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Grants Resources." <https://www.osmre.gov/resources/grants.shtm> Accessed May 16, 2017.

⁵ U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Chronology of Major SMCRA-Related Events." <https://www.osmre.gov/lrg/chronlisting.shtm> Accessed May 16, 2017.

⁶ U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Non-Primacy State and Tribes." <https://www.osmre.gov/programs/AMLIS/nonPrimacyST.shtm> Accessed May 17, 2017.

⁷ U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Reclaiming Abandoned Mine Lands." <https://www.osmre.gov/programs/AML.shtm> Accessed May 16, 2017.

⁸ Office of Surface Mining Reclamation and Enforcement. Abandoned Mine Land Inventory System (AMLIS). "Site Status National." <https://amlis.osmre.gov/CannedReport.aspx> Accessed May 17, 2017.

⁹ Office of Surface Mining Reclamation and Enforcement. Abandoned Mine Land Inventory System (AMLIS). "Cost Summary National." <https://amlis.osmre.gov/CannedReport.aspx> Accessed May 17, 2017.

that naturally contain sulfur-bearing minerals, sulfuric acid is produced. This sulfuric acid can cause rocks to release heavy metals into the water.¹⁰

The presence of AMD presents additional challenges for states seeking to reclaim their abandoned mine sites. Under SMCRA, states are required to meet CWA standards when constructing water treatment plants for AMD abatement. In many cases, bodies of water with AMD will never be able to meet CWA standards due to the naturally occurring processes and minerals present at these sites, even after employing extensive reclamation and water treatment efforts. Because states are currently required to meet unrealistic standards, they must either risk noncompliance with the CWA or choose to forego undertaking these projects entirely.

Some states have addressed this problem by working with relevant state agencies to establish a strategy specifically for treating AMD sites. In Pennsylvania, for example, there are significant AMD discharges impacting numerous local communities. Pennsylvania has established guidelines for AMD abatement work that is uniquely tailored to the needs of that state. Projects carried out in accordance with these guidelines have resulted in improved water quality throughout the state. This legislation enables states to conduct water treatment projects at AML sites according to approved agreements that establish AMD treatment practices, such as the strategy currently being utilized by the State of Pennsylvania.

Creating Opportunities for Community Reclaimers

AML sites pose multiple challenges for coal communities nationwide. Not only do these sites threaten the health and safety of local residents, they also stymie local efforts to promote economic development near inactive mines. While over \$4 billion has been spent reclaiming degraded sites, the large volume of remaining AML projects will continue to constrain state resources and burden local communities for decades to come.

With the coal industry experiencing a shrinking market share and thousands of sites awaiting cleanup, there are concerns as to whether the full inventory of sites can be addressed relying solely on the coal fee. The need for AML cleanup in these communities has encouraged state reclamation agencies to identify avenues for increasing the amount of resources available to the AML program and to seek participation from non-governmental entities that wish to lend a hand. Watershed groups, conservation organizations and industry have long sought to bring their resources and technical expertise to bear, in cleaning up abandoned mine lands.

States like Pennsylvania have recognized the mutual benefits of such partnerships and have implemented their own programs for involving third parties in mine reclamation. In 1999, Pennsylvania enacted the “Environmental Good Samaritan Act,” enabling outside organizations to reclaim and treat polluted water at AML sites.¹¹ This program has led to partnerships with 53 conservation groups that have resulted in the reclamation of almost 80 sites in over 20 counties throughout the state.

¹⁰ U.S. Environmental Protection Agency. “Abandoned Mine Drainage.” <https://www.epa.gov/nps/abandoned-mine-drainage> Accessed May 17, 2017.

¹¹ Commonwealth of Pennsylvania. Department of Environmental Protection. Environmental Good Samaritan Act Fact Sheet. ftp://newftp.epa.gov/GKM_DOCUMENTS/SITE_FILE_MATERIALS/9.28.16/R08-1136194.PDF Accessed May 17, 2017.

However, organizations that wish to participate in state reclamation programs are often deterred by the risk of assuming undeserved liability for sites they wish to reclaim. Indeed, potential Community Reclaimers can be held liable under the CWA for discharges of water from a site that has been significantly improved solely because it can never be brought up to CWA standards.

This legislation seeks to address these impediments by allowing the states to assume liability on behalf of the Community Reclaimers, shielding them from any undue responsibilities under the law. SMCRA already allows for state AML agencies to assume liability on the part of contractors that are approved to work on AML sites. This legislation will expand this practice to Community Reclaimers and any subcontractors they may employ, after the Community Reclaimer has demonstrated their wherewithal to improve the environment affected by AML sites.

Major Provisions of the Bill

Section 3, Subsection (a):

Subsection (m):

This subsection clarifies state authority related to water treatment at abandoned mine sites by statutorily recognizing and authorizing agreements to be entered into between relevant state and federal agencies for the purpose of remediating acid mine drainage and abandoned mine sites, in general. Any state Memorandum of Understanding (MOU) must be approved by the Secretary of the Interior (Secretary) and the Administrator of the Environmental Protection Agency, and be subjected to public review and comment.

Subsection (n):

This subsection authorizes eligible Community Reclaimers to participate in abandoned mine land cleanup projects for states that have established an MOU. Under this paradigm, Community Reclaimers, in a similar fashion to current state AML Contractors, are shielded from liability by enabling the states to formally assume liability and compliance responsibility on their behalf.

To qualify as a Community Reclaimer, an entity must seek to voluntarily assist a state with reclamation projects, have not caused any lands to become eligible for reclamation under Section 404 of SMCRA, and not be a current owner of abandoned mine sites or any other site with ongoing reclamation obligations.

All projects submitted to the Secretary for approval must include: A) a description of the proposed project and any corresponding engineering plans; B) a description of the site of the project; C) identification of current and past owners; D) the agreement between the Community Reclaimer and relevant state; E) a determination the project will facilitate the activities of the reclamation plan; F) sufficient information to determine the technical capabilities of the Community Reclaimer; G) a cost estimate for the project and evidence the Community

Reclaimer has sufficient financial resources to complete the project; H) a schedule for completion of the project; I) an access agreement between the owner of the site and the Community Reclaimer; J) sufficient information to ensure the Community Reclaimer qualifies as a Community Reclaimer; K) a contingency plan; and L) a requirement that the State provide notice to adjacent and downstream landowners and hold a public meeting before the initiation of the project.

Finally, the Secretary shall approve any project so submitted within 120 days after receiving such submission, if the Secretary determines: A) the proposed project will be conducted by a Community Reclaimer; B) the proposed project is consistent with an MOU authorized under subsection (m) of Section 3 of this bill; C) the proposed project addresses eligible sites as defined by SMCRA; D) the project submission includes the detailed requirements as outlined by the bill; E) the State has entered into an agreement with the Community Reclaimer to assume liability; F) the State has the necessary legal authority to conduct the project; G) the State has sufficient financial resources to ensure completion of the project; and H) the project is not eligible for remining under Title V of SMCRA.

Section 4:

This section clarifies that any control or treatment for AMD must be in compliance with the CWA, unless there exists an MOU approved under subsection (m) of Section 3 of the bill. This only applies where projects address mine drainage from Abandoned Mine Lands.

Section 5:

This section requires states to include a list of proposed Community Reclaimer Partnership projects in their annual applications to the Secretary requesting support for their respective state Reclamation Programs.

Cost

Unknown at this time.

Anticipated Amendments

Unknown at this time.

Administration Position

Unknown at this time.

Effect on Current Law (Ramseyer):

Showing Currently Law as Amended by H.R. 2937

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235)

§1235. State reclamation program

(a) Promulgation of regulations

Not later than the end of the one hundred and eighty-day period immediately following August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of this subchapter and establishing procedures and requirements for preparation, submission, and approval of State programs consisting of the plan and annual submissions of projects.

(b) Submission of State Reclamation Plan and annual projects

Each State having within its borders coal mined lands eligible for reclamation under this subchapter, may submit to the Secretary a State Reclamation Plan and annual projects to carry out the purposes of this subchapter.

(c) Restriction

The Secretary shall not approve, fund, or continue to fund a State abandoned mine reclamation program unless that State has an approved State regulatory program pursuant to [section 1253 of this title](#).

(d) Approval of State program; withdrawal

If the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of this subchapter, [sections 1232 and 1240 of this title](#) excepted, the Secretary shall approve such State program and shall grant to the State exclusive responsibility and authority to implement the provisions of the approved program: *Provided*, That the Secretary shall withdraw such approval and authorization if he determines upon the basis of information provided under this section that the State program is not in compliance with the procedures, guidelines, and requirements established under subsection (a).

(e) Contents of State Reclamation Plan

Each State Reclamation Plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of this subchapter.

(f) Annual application for support; contents

On an annual basis, each State having an approved State Reclamation Plan may submit to the Secretary an application for the support of the State program and implementation of specific reclamation projects. Such annual requests shall include such information as may be requested by the Secretary including:

- (1) a general description of each proposed project;
- (2) a priority evaluation of each proposed project;
- (3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;
- (4) an estimate of the cost for each proposed project;
- (5) in the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained;
- (6) an identification of lands or interest therein to be acquired and the estimated cost; [and]
- (7) in each year after the first in which a plan is filed under this subchapter, an inventory of each project funded under the previous year's grant: which inventory shall include details of financial expenditures on such project together with a brief description of each such project, including project locations, landowner's name, acreage, type of reclamation performed[.]; and
- (8) a list of projects proposed under subsection (n).

(g) Costs

The costs for each proposed project under this section shall include: actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

(h) Grant of funds

Upon approval of State Reclamation Plan by the Secretary and of the surface mine regulatory program pursuant to [section 1253 of this title](#), the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to [section 1232\(g\) of this title](#) and which are necessary to implement the State reclamation program as approved by the Secretary.

(i) Program monitorship

The Secretary, through his designated agents, will monitor the progress and quality of the program. The States shall not be required at the start of any project to submit complete copies of plans and specifications.

(j) Annual report to Secretary

The Secretary shall require annual and other reports as may be necessary to be submitted by each State administering the approved State reclamation program with funds provided under this subchapter. Such reports shall include that information which the Secretary deems necessary to fulfill his responsibilities under this subchapter.

(k) Eligible lands of Indian tribes

Indian tribes having within their jurisdiction eligible lands pursuant to [section 1234 of this title](#) or from which coal is produced, shall be considered as a "State" for the

purposes of this subchapter except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes.

(l) State liability

No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

(m) STATE MEMORANDA OF UNDERSTANDING FOR REMEDIATION OF MINE DRAINAGE.—

(1) **IN GENERAL.—**A State with a State program approved under subsection (d) may enter into a memorandum of understanding with relevant Federal or State agencies (or both) to remediate mine drainage on abandoned mine land and water impacted by abandoned mines within the State. The memorandum may be updated as necessary and resubmitted for approval under this subsection.

(2) **MEMORANDA REQUIREMENTS.—**Such memorandum shall establish a strategy satisfactory to the State and Federal agencies that are parties to the memorandum, to address water pollution resulting from mine drainage at sites eligible for reclamation and mine drainage abatement expenditures under section 404, including specific procedures for—

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

(B) monitoring, sampling, and the reporting of collected information as necessary to achieve the condition required under subparagraph (A);

(C) operation and maintenance of treatment systems as necessary to achieve the condition required under subparagraph (A); and

(D) other purposes, as considered necessary by the State or Federal agencies, to achieve the condition required under subparagraph (A).

(3) PUBLIC REVIEW AND COMMENT.—

(A) **IN GENERAL.—**Before a submitting a memorandum to the Secretary and the Administrator for approval, a State shall—

(i) invite interested members of the public to comment on the memorandum; and

(ii) hold at least one public meeting concerning the memorandum in a location or locations reasonably accessible to persons who may be affected by implementation of the memorandum.

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

(4) **SUBMISSION AND APPROVAL.—**The State shall submit the memorandum to the Secretary and the Administrator of the Environmental Protection Agency for approval. The Secretary and the Administrator shall approve or disapprove the memorandum within 120 days after the date of its submission if the Secretary and Administrator find that the memorandum will facilitate additional activities under the State Reclamation Plan under subsection (e) that improve water quality.

(5) TREATMENT AS PART OF STATE PLAN.— A memorandum of a State that is approved by the Secretary and the Administrator under this subsection shall be considered part of the approved abandoned mine reclamation plan of the State.

(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

(1) PROJECT APPROVAL.—Within 120 days after receiving such a submission, the Secretary shall approve a Community Reclaimer project to remediate abandoned mine lands if the Secretary finds that—

(A) the proposed project will be conducted by a Community Reclaimer as defined in this subsection or approved subcontractors of the Community Reclaimer;

(B) for any proposed project that remediates mine drainage, the proposed project is consistent with an approved State memorandum of understanding under subsection (m);

(C) the proposed project will be conducted on a site or sites inventoried under section 403(c);

(D) the proposed project meets all submission criteria under paragraph (2);

(E) the relevant State has entered into an agreement with the Community Reclaimer under which the State shall assume all responsibility with respect to the project for any costs or damages resulting from any action or inaction on the part of the Community Reclaimer in carrying out the project, except for costs or damages resulting from gross negligence or intentional misconduct by the Community Reclaimer, on behalf of—

(i) the Community Reclaimer; and

(ii) the owner of the proposed project site;

if such Community Reclaimer or owner, respectively, did not participate in any way in the creation of site conditions at the proposed project site or activities that caused any lands or waters to become eligible for reclamation or drainage abatement expenditures under section 404;

(F) the State has the necessary legal authority to conduct the project and will obtain all legally required authorizations, permits, licenses and other approvals to ensure completion of the project;

(G) the State has sufficient financial resources to ensure completion of the project, including any necessary operation and maintenance costs (including costs associated with emergency actions covered by a contingency plan under paragraph (2)(K)); and

(H) the proposed project is not in a category of projects that would require a permit under title V.

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

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

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

(C) identification of the past and current owners and operators of the proposed project site;

(D) the agreement or contract between the relevant State and the Community Reclaimer to carry out the project;

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

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

(G) a cost estimate for the project and evidence that the Community Reclaimer has sufficient financial resources to ensure the successful completion of the proposed project (including any operation or maintenance costs);

(H) a schedule for completion of the project;

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

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

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

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

(3) **COMMUNITY RECLAIMER DEFINED.**—For purposes of this section, the term “Community Reclaimer” means any person who—

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

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

(C) is not a past or current owner or operator of any site with ongoing reclamation obligations; and

(D) is not subject to outstanding violations listed pursuant to section 510(c).

Section 413 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1242)

§1242. Powers of Secretary or State

(a) Engage in work, promulgate rules and regulations, etc., to implement and administer this subchapter

The Secretary or the State pursuant to an approved State program, shall have the power and authority, if not granted it otherwise, to engage in any work and to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of this subchapter.

(b) Engage in cooperative projects

The Secretary or the State pursuant to an approved State program, shall have the power and authority to engage in cooperative projects under this subchapter with any other agency of the United States of America, any State and their governmental agencies.

(c) Request for action to restrain interference with regard to this subchapter

The Secretary or the State pursuant to an approved State program, may request the Attorney General, who is hereby authorized to initiate, in addition to any other remedies provided for in this subchapter, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this subchapter.

(d) Construct and operate plants for control and treatment of water pollution resulting from mine drainage

The Secretary or the State pursuant to an approved State program, shall have the power and authority to construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water: *Provided*, That the above provisions of this paragraph shall not be deemed in any way to repeal or supersede any portion of the Federal Water Pollution Control Act (33 U.S.C.A. 1151, et seq. as amended) [33 U.S.C. 1251 et seq.] and no control or treatment under this subsection shall in any way be less than that required under the Federal Water Pollution Control Act unless such control or treatment will be conducted in accordance with a State memorandum of understanding approved under section 405(m) of this Act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

(e) Transfer funds

The Secretary may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this subchapter.