



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

BlueGreen Alliance
Katie Harris, Legislative Director
1020 19th St., NW | Suite 750
Washington, DC 20036
kharris@bluegreenalliance.org

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Response to the Department of Interior's Draft Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Program

The BlueGreen Alliance unites America's largest labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that Americans don't have to choose between a good job and a clean environment—we can and must have both. We appreciate the opportunity to inform the Department of Interior's (DOI) implementation of the Abandoned Mine Land (AML) Grant Program established in the Bipartisan Infrastructure Law (BIL). The implementation of this funding should not only ensure that quality mine reclamation occurs to restore the environment and create new economic opportunities, but also supports good, union jobs.

Abandoned Mine Land Cleanup will Reduce Pollution and Create Jobs

Cleaning up abandoned mines is a great example of how America's environmental challenges can also be economic opportunities. These abandoned mines pose a clear threat to the environment, public health and safety, and wildlife. Millions of Americans live less than a mile from an abandoned coal mine.ⁱ These abandoned mines pose a threat to public safety and the environment in the form of dangerous mine openings, landslides, the collapse of exposed high walls, mine fires, and subsidence caused by the deterioration of underground mines.ⁱⁱ These sites contaminate groundwater and discharge acid into waterways.ⁱⁱⁱ Surface runoff can carry contaminants and debris down-stream, and can cause stream clogging and sedimentation.^{iv} Highly acidic water rich in metals, caused by the abandoned mines, can also

lower the pH of surrounding surface water.^v In these areas, there is often a decrease in the fish population and available fish may pose significant uptake of contaminants when consumed.^{vi} Abandoned coal mines may also cause air pollution issues from methane release, and result in exposure of toxics like arsenic, lead, and radionuclides.^{vii}

At the same time, economic challenges exist in many coal communities. Because of our technological advancements, we are now powering more and more of the nation with cleaner, cheaper energy. This shift is impacting the coal communities that kept the lights on for so long. For generations, coal-dependent areas—whether in Appalachia or surrounding coal-based energy generation plants—have built their economies around coal, not only for the employment of their citizens, but for the revenue that supports their schools, infrastructure, and small businesses. As demand for coal decreases, these communities face an uncertain future.

Reclamation not only remediates the host of environmental and health problems associated with these sites but also frees up that land for new, more sustainable economic development opportunities in industry sectors like agriculture, recreational tourism, manufacturing, and clean energy production. Cleaning up mine lands can also create immediate job opportunities. A BlueGreen Alliance analysis found that the BIL's \$21 billion investment in the remediation of Superfund, Brownfield, coal mines, and orphaned wells would create more than 150,000 jobs (direct, indirect and induced) over the next 10 years. Abandoned mine land cleanup could create over 78,000 of those jobs.^{viii}

Maximizing Benefits for Workers and Communities

DOI should ensure that jobs created by the Bipartisan Infrastructure Law Abandoned Mine Land Grant Program are not just good union jobs, but *accessible* jobs. This means supporting and growing pathways into good union jobs—often through apprenticeships and pre-apprenticeships—in these and other sectors for workers of color and other segments of the population

historically underrepresented in these jobs. A number of policy levers exist to help ensure that investments create good, union jobs, community benefits. We are encouraged to see that nearly all of these policy levers appear in DOI's draft AML guidance. We strongly encourage DOI and the Office of Surface Mining Reclamation and Enforcement (OSMRE) to work with the Department of Labor to ensure that states and tribes are utilizing these policies when awarded funding for AML projects.

- **Contract aggregation.** AML projects currently have low union density, largely due to being too small (by dollar value) to attract union contractors. This could be addressed by prioritizing more large AML projects and by bundling smaller AML projects, both of which are explicitly encouraged in the Bipartisan Infrastructure Law. Aggregating projects into larger state or regional contracts can also improve the efficiency of AML grant funding. We are glad to see that DOI's guidance encourages both of these policies.
- **Employment of dislocated coal workers.** As laid out by the BIL and DOI's draft guidance, dislocated workers with appropriate skill sets should be prioritized for AML reclamation work. We appreciate DOI's requirement that States and Tribes engage with labor and worker organizations that represent coal industry workers to identify current or former employees of the coal industry and provide OSMRE with certifications of this engagement. We also recommend that States and Tribes collect information on the number of former miners that AML contractors employ in order to assess the success of this aspect of the program.
- **Davis Bacon.** As required by the Bipartisan Infrastructure Law, DOI should continue to affirm Davis-Bacon as a requirement of this funding. These wage requirements are essential for the creation of good jobs workers, and should not be subject to any loopholes at the state and local level for work done with AML funds.

- **Registered apprenticeship, pre-apprenticeship programs, and other union-affiliated training programs.** Strong unions can play a key role in promoting diversity, equity, justice, and inclusion within these programs. A BlueGreen Alliance analysis of the U.S. Department of Labor's (DOL) Registered Apprenticeship Partners Information Database System (RAPIDS) found that in the construction industry, 43% of apprentices were people of color in union programs, compared to 33% people of color in non-union programs. However, enrollment in these programs only shows one small metric by which to judge if these programs work to advance the careers of people of color. For true equity and justice to be sustained, officials must focus not solely on enrollment rates, but must carry that focus to retention and promotion within the workplace, that means, in part, working to ensure that apprentices have not only the technical skills, but also the professional tools they need to succeed.

Pre-apprenticeship programs in particular have become a key tool to improving diversity in the building trades. Such programs aim to ensure that workers can qualify for entry into an apprenticeship program and have the skills they need to succeed. These programs are generally designed to target certain populations or demographics such as low-income workers, workers of color, women, and other marginalized communities. Additionally, many unions offer training throughout a member's career to enable them to stay up to date with changes in technology. DOI and OSMRE should ensure that States and Tribes connect projects to apprenticeship and pre-apprenticeship programs wherever possible.

- **Collective Bargaining Agreements, Project Labor Agreements (PLAs), Community Workforce Agreements (CWAs), and Community Benefits Agreements (CBAs).** PLAs are collective bargaining agreements that are negotiated in advance of a project. The encouragement of the use of

PLAs on federally funded projects is not a new policy. In a 2009 executive order, former President Obama ordered that “it is the policy of the Federal Government to encourage executive agencies to consider requiring the use of project labor agreements in connection with large-scale construction projects in order to promote economy and efficiency in Federal procurement.” In February 2022, President Biden reaffirmed this long standing policy with Executive Order (EO) 14063.

Community Workforce Agreements (CWAs) and Community Benefits Agreements (CBAs) are beneficial tools for communities when included with PLAs. They can be more expansive in scope, and are sometimes negotiated with both union and community partners. CWAs go beyond PLAs and are focused on creating opportunity in, and maximizing benefits to, local communities. In addition to the collective bargaining aspects of a PLA, CWAs frequently include local hire provisions, targeted hire of low-income or disadvantaged workers, and the creation of pre-apprenticeship pathways for careers on the project.

The draft guidance encourages the use of PLAs and CBAs. However, the guidance’s additional requirements for projects over \$1 million should be extended to require States or Tribes to certify that *all* projects either use a unionized project workforce, include a project labor agreement, or have a certified “project workforce continuity plan.” DOI should also consider encouraging the use of CWAs. This is especially important for ensuring that local community members are prioritized for this work. The guidance does lay out tracking metrics for ensuring that “local community members” receive work from this funding. The next iteration of guidance should clarify what DOI means by “local community.” One option is to track the proportion of workers from the county (or adjacent county) in which the AML project is located.

- **Stakeholder input.** It is imperative that DOI and OSMRE incorporate input from communities of color (including Tribes), low-income communities, labor unions, and communities that have suffered from the decline of the coal economy into the selection of projects. Local communities have often already identified reclamation projects that will assist in achieving economic development goals. We encourage DOI to follow-through on these commitments when selecting projects.

Conclusion

Reclamation is not just about cleaning up abandoned mines; it's about helping to rebuild the communities. Abandoned mine reclamation is critical to tackling the environmental and public safety challenges affecting coal communities, and can also create quality jobs and spur economic development and diversification. We appreciate the opportunity to provide further comments on how that program can be implemented in ways that create high-quality, family-sustaining jobs, reduce pollution, and help communities build a better future.

ⁱ Grist. Reinventing coal country: Reclaiming America's abandoned mine lands, Nov. 18, 2021. Available online: <https://grist.org/sponsored/reinventing-coal-country-reclaiming-americas-abandoned-mine-lands/>

ⁱⁱ Eric L. Dixon and Kendall Billbrey. Abandoned Mine Land Program: A Policy Analysis for Central Appalachia and the Nation. July 8, 2015. Appalachian Citizens' Law Center. Available online: <https://appalachiancitizenslaw.files.wordpress.com/2015/07/exec-summary-abandoned-mine-reclamation.pdf>

ⁱⁱⁱ AbandonedMines.gov. Available online: <https://www.abandonedmines.gov/water-pollution>

^{iv} AbandonedMines.gov. Available online: <https://www.abandonedmines.gov/sedimentation>

^v AbandonedMines.gov. Available online: <https://www.abandonedmines.gov/water-pollution>

^{vi} AbandonedMines.gov. Available online: <https://www.abandonedmines.gov/health-concerns>

^{vii} AbandonedMines.gov. Available online: <https://www.abandonedmines.gov/air-pollution>

^{viii} BlueGreen Alliance. Build Back Better Investments Will Create Jobs Across the Country. Available online: <https://www.bluegreenalliance.org/site/build-back-better-investments-will-create-jobs-across-the-country/>