

NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS

NEWSLETTER Spring 2022 Vol. 44 No. 1

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UPCOMING MEETINGS 2022 NAAMLP CONFERENCE

Grand Junction, Colorado October 16 - 20, 2022

MISSION STATEMENT

- 1. To provide a forum to address current issues, discuss common problems and share new technologies regarding abandoned mine land reclamation;
- 2. To foster positive and productive relationships between the states and tribes represented by the Association and the federal government;
- 3. To serve as an effective, unified voice when presenting the states'/ tribes' common viewpoints; and
- 4. To coordinate, cooperate and communicate with the Interstate Mining Compact Commission and all other organizations dedicated to wise use and restoration of our natural resources.

Dear Members and Partners.

I'll start off by saying that meeting in-person was long overdue! The opportunity to get together in Gulf Shores and spend time catching up and discussing AML issues demonstrated how truly isolating these past couple of years have been, and how important it is to share face to face conversations. Huge thanks to Dustin and his team for hosting all of us and putting together a week with excellent accommodations, good food and great weather! I had some tinges of guilt enjoying the sun and 60 degrees while folks back home were suffering through single digits.

This winter and spring has been a flurry of activity and discussions related to the unprecedented expansion of our respective Programs by the Infrastructure Investment and Jobs Act (IIJA). For most of us that will involve a sea change shift in our thinking and approach to administration of our Programs. I think we all feel some trepidation mixed with excitement for what is to come. While it is easy to get caught up in discussions about the logistics of hiring, the timing of capacity building or the myriad of details related to final guidance, we can't lose site of the incredible opportunity this funding provides to truly address the legacy of abandoned mine issues across the country for the foreseeable future.

Regarding draft guidance on IIJA specific to AML, the rollout took much longer than originally anticipated. When it was finally released in draft form, I think most of us were taken aback by the details, and the addition of numerous changes and mandates outside the narrowly focused language of the bill. I want to extend a huge thanks to IMCC, both Tom Clarke and Ryan Ellis, for organizing follow up discussions on the guidance and for capturing the substance of member comments. These comments were submitted to DOI-OSMRE and will hopefully form the basis for revising or at least reconsidering the initial draft guidance. I would also like to thank the other member states and Tribes that submitted timely comments to help drive home many of the points that we share as an association. If the guidance remains unchanged, many of these new requirements will stretch and challenge current program capacities, so working together as member States and Tribes will be critical to maintain a unified front on our approach. Tom Clarke, Ryan Ellis and I have continued to meet with OSMRE Program Directorate staff since February to stay informed of guidance development and advocate on behalf of both NAAMLP and IMCC membership. While this process at times has not necessarily resulted in the hoped for results, there will be no question that State and Tribal positions were consistently presented and made known.



There are some truly exciting developments on the hardrock front resulting from inclusion of a national program framework within IIJA. Even though funding for the national program was not appropriated, the mantle of its development has been taken up by the Office of Environmental Policy and Compliance (OEPC) within DOI. OEPC had demonstrated a strong desire to work with States and Tribes to formulate a program designed to equitably distribute future funds and address the national hardrock AML legacy. As chair of the Hardrock Committee within NAAMLP, Rob Ghiglieri along with IMCC and a subset of NAAMLP hardrock states, have been regularly meeting with OEPC to provide feedback on inventory, priorities, grants and goals. These discussions have been extremely fruitful, and will hopefully produce a program that works well for States and Tribes to achieve expanded hardrock AML reclamation.

Other items of note impacting NAAMLP members are efforts to open up IIJA for AMD set aside and hardrock Good Sam Legislation. The Stream Act AMD bill (HR7283 and S3957) in both the House and Senate is intended to amend the IIJA to allow these funds to be set aside for long term maintenance and treatment of AMD. The Good Samaritan Remediation of Abandoned Hardrock Mines Act (S3571) is a pilot program intended to facilitate Good Samaritan cleanups at up to 15 hardrock sites. This Program would be administered by the EPA, and would hopefully form the framework for expanded opportunities beyond the initial pilot sites.

Finally, I submitted formal comments on behalf of the Association to the House Appropriations Subcommittee in regards to the President's proposed budget for OSMRE. Huge thanks to Ryan Ellis for assisting with the development of our submission. In these comments, I touched on a number of funding related topics including many of the challenges facing our Programs as a result of IIJA along with the well documented concerns related to the AMLER program. The statement has already generated some interest from Congress, and will hopefully jumpstart conversations surrounding these topics. I have attached the statement to our newsletter for you to read through.

I look forward to hosting the Association in Grand Junction, Colorado for our Fall Conference. The conference has been themed a Confluence to denote the coming together of ideas and people, so please sign up and join us to learn about the incredible work and innovations being implemented through our respective AML Programs.

Don't hesitate to reach out to myself and the other officers, Ben and Dustin, as suggestions or questions arise. We are excited to serve on your behalf and continue advocating for the best interest of our Association members.

Sincerely,

Jeff Graves
NAAMLP President

Join Us For This Year's NAAMLP Conference

October 16-20, 2022, Grand Junction, Colorado

This year's conference, co-hosted by Colorado and Utah, is a confluence of ideas. The reclamation landscape of tomorrow presents numerous opportunities for innovation, efficiency, and partnership. Join us in Colorado to explore what's next.

The Gunnison and Colorado Rivers meet just east of the Colorado-Utah border. Long a home to the Ute and earlier Indigenous Peoples, Grand Junction was founded in the late 1800s and cultivated as an agricultural, ranching, and mining center.

Today, Grand Junction maintains its reputation as the premier growing spot for some of the finest peaches and other fruit in Colorado. It also serves as a base camp for folks who want to explore the natural beauty, paleontological wonders, and cultural heritage found here.

The conference will be held at the Doubletree by Hilton Grand Junction. You can <u>book your room</u> at a discounted rate through the location page at <u>NAAMLP2022.com</u>.



2022 Abandoned Mine Land Reclamation Awards

Nomination Period Opens

WASHINGTON – Nominations for the 2022 Abandoned Mine Land Reclamation Awards, which recognize outstanding state and Tribal efforts to reclaim abandoned coal mines, opened today and are due to the Office of Surface Mining Reclamation and Enforcement by 11:59 p.m. ET on June 17, 2022.

Presented in partnership with the National Association of Abandoned Mine Land Programs, OSMRE recognizes exemplary reclamation projects, which reclaim sites that were mined and abandoned prior to 1977. Today, the AML Reclamation Awards are the highest honor a reclamation program can achieve.

Each year, OSMRE presents the following AML awards:

- National Award: Presented to the state or Tribe with the best overall reclamation project.
- Small Project Award: Presented to the state or Tribe that receives less than \$6 million annually in AML funding and completes a project costing less than \$1 million.
- Regional Awards: Presented to the state or Tribe with the best project within each of the following regions: Appalachian States,
 Interior States, and Western States and Tribes.

Previous AML Award winners have introduced or refined techniques to achieve superior results in returning mines to productive use. Recent award-winning projects have featured reforestation techniques, geomorphic land restoration, the creation of wetlands to mitigate acid mine drainage, landslide stabilization, and watershed improvement, among others.

On February 7, the U.S. Department of the Interior announced nearly \$725 million in fiscal year 2022 funding for 22 states and the Navajo Nation to reclaim AML as part of President Biden's Bipartisan Infrastructure Law, which allocates a total of \$11.3 billion in AML funding over 15 years to help communities eliminate dangerous environmental conditions and pollution caused by past coal mining. Subsequently, on March 4, 2022, the Interior Department announced an additional \$144 million in fiscal year 2022 funding for states and Tribes for abandoned mine land reclamation efforts.

Find more information about the awards, eligibility, and the nomination process and requirements, visit AML Reclamation Awards. Submit nominations or questions about the awards to OSMRE at awards@osmre.gov.

Statement from President Jeff Graves

Fiscal Year 2023 Proposed Budgets

Statement of Jeff Graves, Director, Inactive Mine Reclamation Program, Colorado Department of Natural Resources on Behalf of the National Association of Abandoned Mine Land Programs re. the FY 2023 Proposed Budgets for the Office of Surface Mining Reclamation and Enforcement and Energy Community Revitalization Program before the Interior, Environment, and Related Agencies Subcommittee of the House Appropriations Committee – April 4 2022.

My name is Jeff Graves and I serve as the Director of the Inactive Mine Reclamation Program within the Colorado Department of Natural Resources. I am providing this statement on behalf of the National Association of Abandoned Mine Land Programs (NAAMLP), for which I currently serve as President. NAAMLP represents 32 states and Tribes, of which twenty-nine implement federally approved abandoned mine land reclamation (AML) programs authorized under Title IV of the Surface Mining Control and Reclamation Act (SMCRA), and many implement state level programs for hardrock AML. My office's address is 1313 Sherman Street #215, Denver CO 80203. My office phone number is (303) 866-3567 x8122. My email is jeff.graves@state.co.us.



The infusion of much-needed funding for coal AML in the Infrastructure Investment and Jobs Act (IIJA) has ushered in a new era for the SMCRA Title IV AML programs and the benefits they bring to communities all over the country. We thank Congress for recognizing the critical role this AML work plays in contributing to health and safety, environmental restoration, access to clean water, and the creation of jobs and opportunities for economic growth, especially in places like Appalachia that are affected by the energy transition.

We have been working closely with our sister organization the Interstate Mining Compact Commission (IMCC) as well as our federal partners at the Office of Surface Mining Reclamation and Enforcement (OSMRE) on implementing the new AML funding. Our efforts so far make us confident that the AML programs will be successful in delivering the many benefits that Congress envisions. However, there are also challenges emerging in implementing the IIJA funding. They are surmountable, but Congressional attention at this critical time when the AML program of the future is being established is very appropriate.

SMCRA has been successful largely as a result of the cooperative federalism model that it employs. While the states and Tribes understand and appreciate OSMRE's role in the AML program under SMCRA, we caution against using limited OSMRE funding for unproductive ends, for example oversight that second-guesses state/Tribal assessments or requires unnecessary levels of supplemental information that does not advance program purposes. Rather than having OSMRE engage in additional oversight, the states and Tribes would benefit from a more collaborative relationship. We encourage Congress to maintain funding that serves that purpose.

For example, we believe that funding for technical assistance and applied science projects related to AML work is particularly important. We also urge the Subcommittee to maintain necessary funding for OSMRE's training program and TIPS, including moneys for state/Tribal travel. These initiatives are central to the effective implementation of state and Tribal AML programs as they provide necessary training and continuing education for state/Tribal agency personnel, as well as critical technical assistance. We believe funding for Watershed Cooperative Agreements should also be maintained in the amount of \$1.5 million. This funding serves an important role in facilitating state and local partnerships, thereby helping to leverage outside sources of funding and preserve precious reclamation grant funding. OSMRE's proposed budget generally includes a discretionary appropriation request of approximately \$23 million to fund the agency's own AML work, its administration of the AML Fund, and other activities in support of the AML program, which is important to continue. With regard to funding for state Title IV Abandoned Mine Land (AML) program grants, the states and Tribes should receive the full mandatory appropriation in FY 2023 under both the pre-existing fee-based AML program and the IIJA.

For the AML program to be successful, OSMRE must accept state input on program design. This is especially important for the new \$11.3B in IIJA treasury-sourced AML funding, which NAAMLP is working to ensure is implemented efficiently and effectively. While we continue to patiently await specific guidance from OSMRE regarding many aspects of IIJA implementation, there is growing concern that the administrative processes emerging for the new IIJA treasury-based funding will undermine efficient, effective program implementation. The Title IV AML programs have been operating for over forty years and have well-developed, reasonably efficient administrative processes already in place. We believe the sponsors of this legislation intended to build on the successes of the mature, pre-existing program instead of reinventing the wheel.

However, we understand that OSMRE plans to institute a new, separate grant application process for the treasury-sourced IIJA funding to ensure separate accounting for the treasury-sourced and fee-sourced portions of AML funding. The states believe strongly that accounting these two sources of funding in no way requires doubling the number of grant applications (and administrative burden of the grant process). The state AML programs regularly keep track of various sources and categories of funding under the pre-existing AML program.

A similar issue has emerged with respect to reclamation plan amendments. OSMRE intends to require a program-wide effort to update state and Tribal reclamation plans. NAAMLP's view is that the IIJA does not require a program-wide reclamation plan update, especially considering that full compliance with federal requirements is independently assured by OSMRE's oversight of every AML project. Furthermore, the state and Tribal AML programs are facing the personnel

and resource challenge of putting a much larger amount of AML money to work, making this an especially poor time to divert program managers' attention to updating plans that are largely a formality. We ask that Congress keep these troubling developments in mind and help NAAMLP ensure that our input is not only heard but actually integrated into OSMRE's plans.

Additionally, state and Tribal programs await clarity and specific guidance on Justice 40 implications for implementation of not only future IIJA funding, but current fee-based grants and the AML Economic Revitalization (AMLER) program. State and Tribal programs have a long and well-established history of focusing resources on communities most impacted by AML to achieve not only the goals of Title IV, but to further many of the goals laid out in Justice 40. NAAMLP strongly urges Congress to ensure that sufficient consideration is given to both coal and non-coal AML sites as a top criteria for classifying communities of need under Justice 40.

Another IIJA-related issue requiring Congressional attention is the AML programs' ability to address legacy water pollution. Abandoned mine drainage (AMD, aka acid mine drainage) is a persistent scourge on human and environmental health. It is also an impediment to economic growth in many states, especially those in the historic coalfields of Appalachia and the Midwest. Congress clearly intended to expand the states' ability to treat polluted water through the IIJA. However, a key element of the authority the states need to be effective at this, the use of AMD "set aside" accounts, has been interpreted by the Interior Department as absent from the IIJA. The purpose of set aside accounts is to fund the long-term costs of AMD treatment systems. Eleven states have used the set aside authority under the pre-existing AML program and as AML work expands with IIJA funds, several more states may also need set aside accounts. Without them, the states' ability to make further progress in eliminating AMD - restoring the life and productive use of orange-tinted, metal-laden streams - will be severely impaired.

A bi-partisan bill, the STREAM Act (H.R. 7283 / S. 3957) has been developed to fix this situation. It would clarify that IIJA treasury-sourced funds are allowed to be placed in AMD set aside accounts as has been done under the pre-existing fee-based AML program. This does not represent a new outlay of funds, but rather a clarification about how funds already appropriated by the IIJA can be spent that would ensure its established purposes are fulfilled. NAAMLP and IMCC assisted with the bill's development. We thank its authors and sponsors, Representatives Cartwright and McKinley as well as Senators Casey and Braun, for their attention to this important issue and commitment to helping communities impacted by AMD.

The states have also become increasingly concerned with administration of an existing portion of the AML program, the AMLER program (aka "pilot program"). The states are very proud of the projects they have conducted through AMLER, which look for creative opportunities to turn AML sites into opportunities for economic development. We request that funding in the amount of \$115 million continue. However, Congress should be aware that the AMLER program has become impeded by untenable administrative processes and lack of respect for state expertise.

The most immediate problems in the AMLER program are substandard communication, opaque administrative process, and the paralyzing uncertainty that results therefrom. The states have no way of knowing when they can expect a response on a project application, which sometimes take a very long time (one such project in Virginia has been caught up in the OSMRE vetting process for over 1,000 days). They also have insufficient information on the standards for vetting projects at OSMRE headquarters such that they are frequently rejected and/or have to be substantially re-worked without the explanation needed to avoid the same issues in the future. This vetting process is not required by law, but has evolved into a time-consuming, nearly complete preplanning of almost every element of a project. The lack of clarity that results from the problems above creates substantial, unnecessary administrative burden, which has resulted in the AMLER program taking up a disproportionate amount of AML staff time. Worse, the lack of clarity in the AMLER program creates an untenable situation for project partners, whose cooperation is essential to the program working as intended. The local NGOs and businesses that would otherwise collaborate with states on these projects are finding it increasingly difficult to navigate the process or to receive reasonable assurance that their projects will succeed if they follow the program guidelines, which prompts partners to spend their time and money elsewhere. Last but not least, OSMRE tends to substitute its own opinions on the economic development prospects of projects for the states' expertise, second guessing state decisions where the issues at hand are probably beyond OSMRE's legitimate ability to judge.

This situation could be resolved in large part with some fairly basic standards for administering the program. We believe the following would greatly improve the situation and ask that Congress put these requirements into place through report language.

- A 60-day deadline for responses on vetting project applications from OSMRE
- A tracking system to keep states and their partners apprised of progress with project vetting
- · Clear guidelines for when various processes and application components must be used
- Deference to state decisions on economic development questions

NAAMLP represents many states with significant hardrock AML problems within their borders. In the absence of a hardrock AML funding source comparable to Title IV funding for coal AML, state and Tribal hardrock AML programs struggle to maintain adequate funding and make consistent progress. There is no comprehensive account of the scale of the hardrock AML problem, but it is often cited as being in the tens of billions of dollars. Hardrock AML comes with the same pernicious effects as coal AML on the health and safety, environment, and economic vitality of impacted communities throughout the country, especially in the West.

The \$3 billion funding authorization for hardrock AML in the IIJA is a very exciting development, despite the fact that the funding has not yet been appropriated. Since the passage of the IIJA, NAAMLP and IMCC have been working closely with DOI's Office of Environmental Policy and Compliance (OEPC), the group tasked with developing the new hardrock AML state/Tribal grants program authorized by the IIJA. We have been very pleased with OEPC's willingness to integrate state/Tribal input into their plans.

NAAMLP and IMCC have been convening a large group of states and Tribes with interest in hardrock AML for many years. We have recently re-doubled our efforts to outline the best way for the new hardrock AML state/Tribal grants to operate. We gathered a group of both NAAMLP/IMCC members and non-member states and Tribes, conducted a survey of current circumstances regarding hardrock AML work in each participating state and Tribe, and then summarized those surveys and created recommendations based on their insights. For example, we have developed recommendations for how to work toward a national level inventory of hardrock AML sites in the medium/long term while also enabling states and Tribes to make progress with reclamation work in the meantime. All this to say, the states, Tribes, and our federal partners are ready to put hardrock AML money to very productive use. The \$1.6M in funding for states and Tribes provided in the 2022 Omnibus for the energy community revitalization program (ECRP) is an encouraging start but is not enough to meaningfully further progress with reclamation. We urge Congress to include the \$65 million for hardrock AML as part of the ECRP in FY 2023 appropriations as requested by the president's budget.

In closing, the states and Tribes represented by NAAMLP again express our gratitude to Congress for the recognition of the value of the AML programs, both coal and hardrock, and the investment in their future represented by the IIJA. We look forward to beginning this new chapter for coal AML and are thrilled to be moving toward a national-scale hardrock AML grants program as well. With Congress' continuing attentiveness to AML implementation issues, we feel confident that continued success of the state and Tribal AML programs can be assured.

NEWSLETTER ARTICLE SPECIFICATIONS

400 - 500 words. Articles subject to editing. Submit in e-mail or hard copy. Include author's name, title of article, captions for photos. Submit photos in TIF (preferred) or JPG format, and original photo size.

E-mail photos as individual files, not embedded.

Deadline for Fall Edition is November 15, 2022.

Email articles to Justin Adams (justin.adams@ky.gov) or

mail articles to: Justin Adams, Director

Division of Abandoned Mine Lands
Department for Natural Resources

300 Sower Blvd. Frankfort, KY 40601

For more information call **Justin Adams**, **Ben Enzweiler**

or Brent Asher at 502-564-2141.





JOIN US IN GRAND JUNCTION, COLORADO OCTOBER 16-20 FOR THIS YEAR'S NAAMLP CONFERENCE!



This year's conference, co-hosted by Colorado and Utah, is a confluence of ideas. The reclamation landscape of tomorrow presents numerous opportunities for innovation, efficiency, and partnership. Join us in Colorado to explore what's next.

THE LOCATION

The Gunnison and Colorado Rivers meet just east of the Colorado-Utah border. Long a home to the Ute and earlier Indigenous Peoples, Grand Junction was founded in the late 1800s and cultivated as an agricultural, ranching, and mining center.

Today, Grand Junction maintains its reputation as the premier growing spot for some of the finest peaches and other fruit in Colorado. It also serves as a base camp for folks who want to explore the natural beauty, paleontological wonders, and cultural heritage found here.

The conference will be held at the Doubletree by Hilton Grand Junction. You can book your room at a discounted rate through the Location page at NAAMI P2022.com.

Located north and west of downtown Grand Junction, and near the regional airport, it offers plenty of amenities and space for everyone to gather.

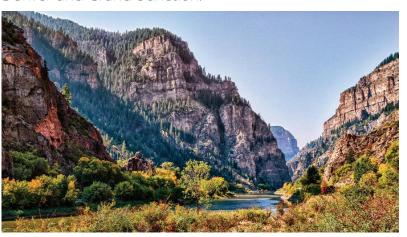


GETTING THERE

There are several travel options that will get you to

Grand Junction. The Grand Junction Regional Airport offers services to and from Denver, Phoenix, Dallas/Ft. Worth, Houston, Las Vegas, Salt Lake City, and Los Angeles (seasonally). Driving from either Denver or Salt Lake City — both about four hours away — is simple, with I-70 running right through town.

While the drive may take a little longer, you're rewarded with great scenery on the way there, such as this view through Glenwood Canyon, about halfway between Denver and Grand Junction.



SCHEDULE

Things get started on Sunday afternoon with attendees checking in and saying hello to old friends at the welcome reception that evening. Monday has folks soaking up knowledge in technical sessions throughout the day, with the awards banquet that evening. On Tuesday attendees and registered guests disperse throughout the region on fun and informative tours, with a buffet dinner in Grand Junction that night. Wednesday brings more great technical sessions, with things wrapping up on Thursday with the association's business meeting.

See a general schedule at right. Detailed information can be found on the Schedule page at NAAMLP2022. COM. A schedule of specific Technical Sessions will be finalized after the abstract deadline in June and will be available online then.



SATURDAY, OCTOBER 15TH

Pre-conference mountain biking

SUNDAY, OCTOBER 16TH

Noon - 5pm: registration and hellos

5 - 7pm: welcome reception

MONDAY, OCTOBER 17TH

6:30 - 8am: breakfast

8:30 - 10am: plenary session and keynote

10:30am - noon: technical session 1

1:30 - 3pm: technical session 2

3:30 - 5pm: technical session 3

6 - 9pm: reception, banquet, and awards

TUESDAY, OCTOBER 18TH

6:30 - 8am: breakfast

Early morning through late afternoon: regional tours

5 - 8pm: buffet and bluegrass

WEDNESDAY, OCTOBER 19TH

6:30 - 8am: breakfast

8:30 - 10am: technical session 4

10:30am - noon: technical session 5

1:30 - 5pm: business meeting

THURSDAY, OCTOBER 20TH

8am -5pm: business meeting

THE 43RD ANNUAL CONFERENCE OF THE NATIONAL ASSOCIATION OF ABANDONED MINE LAND PROGRAMS

TOURS

We are excited to offer a range of experiences that bring you to the best of what the Western Slope has to offer. Trips to Arches National Park and Dinosaur National Monument take you into Utah, while Colorado National Monument, Coal Fire projects near Glenwood Springs, and Uranium sites of the West Slope bring you through some of the most scenic parts of Colorado.



ARCHES NATIONAL PARK

Explore this iconic landscape with us on a trip across the border into Utah. Tour will

include a half-day exploration at Arches.



COLORADO NATIONAL MONUMENT AND NEARBY WINERIES

The Monument features the

23-mile long Rim Rock Drive, which takes visitors along a winding vista filled with red rock canyon walls and views of the Grand Valley and Colorado River. Hikes of varying lengths and difficulty are available from the road. Lunch will be provided in the Monument. After our visit there we will head east to Palisade, home to orchards and vineyards, and sample some of the area's wines (optional).



DINOSAUR NATIONAL MONUMENT

Visit one of the most productive historic dinosaur fossil beds in

America! Located at the northern corners of Colorado and Utah, this national monument has both breathtaking paleontology and scenic hiking, making for an enjoyable outing.



GLENWOOD SPRINGS AND NEARBY COAL MINE PROJECTS

Glenwood Springs rests along

the Colorado River approximately an hour and fifteen minutes east of Grand Junction. Glenwood's rich history as a coal-producing and coking center gives us the opportunity to explore several historic mining areas, as well as an active coal seam fire that was recently mitigated near the town. Visitors will have the opportunity to learn more about the challenges of coal seam fire projects and about the legacy of coal mining in the area. Glenwood Springs offers a range of shopping and dining experiences as well.



URANIUM SITES OF WESTERN COLORADO

Join our partners from the Department of Energy on a

tour of historic and reclaimed uranium sites near Grand Junction. Stops will include the historic WWII-era uranium/vanadium processing and disposal facility, a drive through scenic Unaweep Canyon to Gateway, with a tour of a historic auto museum. The final stop will be a trip to the historic Calamity townsite.



VISIT NAAMLP2022.COM TO REGISTER, BOOK HOTEL ROOMS, GET DETAILED INFORMATION AND MORE. SEE YOU IN OCTOBER!