



Senate Select Committee on Mining

December 6, 2012

Members,

Since September 2012, the Senate Select Committee on Mining has held four hearings, where the committee has heard testimony from major stakeholders in the mining debate. These speakers include, in order:

- Tom Evans, *Wisconsin Geological and Natural History Survey*
- Rebecca Graser, *Army Corps of Engineers*
- Ann Coakley, *Wisconsin Department of Natural Resources*
- Ann McCammon-Soltis, *Great Lakes Indian Fish & Wildlife Commission*
- Dave Boetcher, *International Brotherhood of Electrical Workers*
- James Buchen & Scott Manley, *Wisconsin Manufacturers & Commerce*
- George Meyer, *Wisconsin Wildlife Federation*
- Stephen Donohue, *Wisconsin Mining Association*
- Jennifer Giegerich, *Wisconsin League of Conservation Voters*
- Amber Meyer Smith, *Clean Wisconsin, Inc.*
- Rick Stadelman, *Wisconsin Towns Association*
- Jeff Beirl, *Ashland County Administrator*
- Arlen Albrecht, *Taylor County UW-Extension – Community Resource Development*
- Tim Sullivan, *Wisconsin Mining Association*
- George Meyer, *Wisconsin Wildlife Federation*

From the beginning, the committee's intention has been to take the ideas of expert witnesses and use their knowledge of mining regulations to form a set of ideas to include in mining legislation. The ideas included in this document were recommended or influenced by those with a deep and complete understanding of current law and the changes necessary to streamline the permitting process and provide certainty to a mining company while also protecting the environment.

I look forward to a thorough and open discussion on these and other topics.

Sincerely,

Sen. Tim Cullen
Chairman

Streamlining the Permit Process

Prospecting – Eliminate the environmental impact statement and contested case proceeding for a prospecting permit.

Pre-application Process – Require at least one year for the pre-application process (from notice of intent to application submission).

Application Costs – Maintain current law to provide that the applicant pays for the Environmental Impact Statement.

Determining Completeness – Maintain current law in allowing quality to be a factor when determining administrative completeness.

Establishing Expectations for All Parties – Require a Memorandum of Understanding between the DNR and federal regulatory agencies to ensure a smooth collaborative process with a higher level of certainty. 

Collaboration – State should take the lead when working collaboratively with federal regulators and the applicant. The state should recognize that it is in the best interest of all parties to ensure collaboration and require DNR to work with the mining applicant and appropriate government entities in the pre-application and application processes, including federal agencies and Native American tribes.

Permitting Timeline – Require DNR to process a mining permit (from determination of a complete application to the issuance of a contested case decision) within two years.

Pauses in the Permitting Process – Allow DNR to pause the permitting process once – for up to six months – if: 1) the department needs more time to ensure collaboration with federal regulators, 2) there is new  information presented in the process, or 3) there are changes to the original proposal. Allow the applicant to pause the process at any point as often as it finds necessary and appropriate. The applicant and regulators are allowed to enter into a mutual agreement which establishes an alternate timeline.

Protecting the Public Voice

Master Hearing – Maintain a contested case proceeding as part of the master hearing, but require DNR to issue a permit decision prior to the contested case hearing. The master hearing is to be concluded within 180 days of DNR's final permit decision. As in current law, the burden of proof should remain with DNR in its decision to permit a mine. All parties participating in the master hearing will be provided 30 days to file challenges. If no challenges are filed after 30 days of DNR's final decision, then the permit is effective. If challenges are filed and a contested case proceeds, construction or operation of a mine may not commence until the proceedings have concluded and the permit is effective.

Technical Changes

Waste Characterization Studies – Direct the DNR to adopt a rule to use American Society for Testing and Materials (ASTM) standards for testing and methodologies for evaluating mining waste. Allow the department to update standards based on new technologies and practices.

Planning Horizon for Water Quality Modeling – Establish that **the time frame for the modeling for design of mining waste facilities to determine compliance with groundwater quality standards at the edge of the Design Management Zone be 250 years.**

Clarifying Existing Environmental Regulations – Direct DNR to clarify ambiguities in current rules, including NR 140 groundwater quality standards.

Mandatory Intervention Boundary – **Require DNR to find mutual agreement with a mining applicant regarding the distance of the Mandatory Intervention Boundary (MIB).** The MIB must not be less than 150 feet or more than 600 feet (or 50 percent of the Design Management Zone boundary), falling within the Design Management Zone. Current law establishes a 150-foot MIB. Evaluation of the results at the MIB should be conducted pursuant to NR 140.

Irrevocable Trust Agreement – Modify and simplify the Irrevocable Trust Agreement to establish that the amount of funds required for the Irrevocable Trust Agreement be at least 20 percent, ~~at the discretion of the department,~~ of the amounts required for a mining company's Reclamation Bond for the full mining operation and a company's Long Term Care Bond for the full mining operation.

Bulk Sampling – **Allow bulk sampling at a mining site of up to 10,000 tons of ore under the state's Exploration Permit process.** The bulk sampling would be allowed through a mining exploration permit rather than a mining prospecting permit.

Protecting the Taxpayer

Gross Tonnage – Establish that tax revenue should be based on how much ~~iron~~ ore is extracted from a mine.

Local Impact Fund – Increase an applicant's Notice of Intent fee to \$100,000, intended for the Local Impact Fund. Direct the state's Local Impact Fund Board to create a policy for distributing resources to communities once active exploration begins in an area.

Distribution of tax dollars – 70 percent of revenue raised by a mining operation will be paid to the Investment and Local Impact Fund Board, 30 percent will be paid to an economic diversification and development fund which serves the area impacted by a mine.

Fees

Tipping Fees – Exempt mining waste from the state's recycling fee.