



HOUSE OF REPRESENTATIVES

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9:00 am September 15, 2016

Board of Environmental Protection, Maine DEP
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James Parker, Chair
 Alvin Ahlers, Tom Eastler, Thomas Dobbins,
 Mark Draper, Jonathan Mapes, Kathleen Chase

Testimony to the Board of Environmental Protection related to

Chapter 200 Metallic Mineral Exploration, Advanced Exploration, and Mining Repeal & Replace

Board Chair Parker, other members of the Board of Environmental Protection, Commissioner Mercer, and other staff of the Department of Environmental Protection, my name is Ralph Chapman from Brooksville.

Thank you, Board members, for volunteering your service to the people of the State of Maine.

I am the State Representative from the House district in Hancock County that is the only district in Maine to have metallic mineral mining during the past century. On behalf of my legislative colleagues, I offer an apology for our having put you in this untenable situation, along with the Department, in which you will be unable to promulgate rules acceptable to the Legislature because the statute that we passed in 2012 constrains your ability to develop rules that can reasonably regulate metal mining. In my colleagues' defense, it should be recognized that we have learned a great deal more in the past four years than we were able to learn during the six weeks that the statute was considered.

I note that staff presented you with the overwhelmingly failed amendment to LD 750 from earlier this year. Please ask them to provide you with a copy of the original LD 750 so that you will have an idea of what elements would constitute a more reasonable approach to regulating mining than the approach you are forced to take.

The Department is accustomed to a process of permitting development activities by having an applicant tell the Department the plan, convincing the Department that the plan meets the requirements of the rules, being granted a permit, and then, if for any reason, the development effort creates a situation that is out of compliance of the permit, a series of enforcement tools are available to force the developer to correct the situation. Financial assurance mechanisms to carry the plan to completion are often included.

Unfortunately, this method of permitting cannot work for metal mining activities for two reasons: a major compliance failure of mining activity cannot be corrected, and no company or industry can afford the costs incurred toward a partial remediation of the failure. Permanent environmental damage and continuing public expense are the result (such as with the mines in my district).

Therefore, a different regulation approach is needed: rather than the commonplace post-failure enforcement mechanism, we need to have a strong on-going control mechanism with monitoring by independent expertise to insure that a failure does not occur. Since some types of failures (such as in my district) involve long-time weathering of mine waste materials creating unstoppable acid reactive drainage, a plan for development must be consistent with maintaining the mining site in a geologically stable condition during and after resource extraction.

Finally, as a brief update on the failed mines currently in Maine, first, we have learned in the past few months of a reassessment of the costs of the partial remediation efforts at the Callahan mine: rather than 23 million dollars, the estimate is now 45 million dollars, of which 4.5 million come from Maine taxpayers (at the current rate of about half a million per year); and second, we have learned that the partial remediation efforts at the Kerramerican mine, involving a geosynthetic cover, have not reduced the surface water contamination of heavy metals by the intended 97 percent. I recommend that mining rules disallow the use of geosynthetic covers at sulfide mines in Maine unless, and until, the failure of the remediation measures at the Kerramerican site are understood.

(And, by the way, you might recommend to the Department that analysis of the water contamination from the ineffectual geosynthetic cover be a higher priority of the Department than their efforts to rewrite mining rules.)

Thank you

A handwritten signature in black ink that reads "Ralph Chapman". The signature is written in a cursive, flowing style.