

**2001 DRAFTING REQUEST**

**Bill**

Received: **09/11/2000**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Addl. Drafters:

Subject: **Environment - mining**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Black@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Denial of mining permits to certain persons

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**Instructions:**

1999 AB 159

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			pgreensl 09/27/2000	_____	gretskl 09/27/2000		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofcd</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	traderc 09/28/2001	wjackson 09/28/2001	kfollet 10/02/2001	_____	lrb_docadmin 10/02/2001		State
/3	traderc 12/04/2001	jdyer 12/11/2001	pgreensl 12/11/2001	_____ _____ _____	lrb_docadmin 12/11/2001 lrb_docadmin 12/12/2001	lrb_docadmin 03/07/2002	

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13 <sup>12</sup>/<sub>11</sub> jld

~~12~~/<sub>11</sub>  
P8

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10/9/28      10/2
   
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1?	traderc		PJ 9/26	9/26 BF p6			

FE Sent For:

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2001  
~~1999 ASSEMBLY BILL 459~~

September 14, 1999 - Introduced by Representatives BLACK, BOCK, MILLER, LA FAVE, HUBER, PLOUFF, J. LEHMAN, BALOW, POCAN and BERCEAU, cosponsored by Senators DECKER, BURKE and BAUMGART. Referred to Committee on Environment.

RECEN

1 AN ACT to repeal 293.49 (2) (d) 3.; and to create 293.37 (2) (e) 1. e. and f. and  
2 293.49 (2) (g) of the statutes; relating to: information concerning persons who  
3 intend to engage in mining and related entities and denial of mining permits.

2  
3

*Analysis by the Legislative Reference Bureau*

Under current law, a person must obtain a mining permit from the department of natural resources (DNR) before beginning to mine for metallic minerals. A person who applies for a mining permit must provide DNR with specified information concerning the forfeiture in the United States of mining reclamation bonds by the applicant or related persons, felony convictions of the applicant or a related person for mining-related violations of state or federal environmental protection laws, financial problems of the applicant or related persons that resulted in failure to  
\* reclaim a mining site in the United States, and revocations of mining permits in the United States because of failure to reclaim a mining site. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.

This bill requires a person who applies for a mining permit to provide additional information to DNR. The bill requires the applicant to furnish information concerning any civil penalty or requirement to pay restitution in an amount of more than \$10,000 or to expend more than \$10,000 to remedy environmental pollution that is imposed on the applicant or a related person for a mining-related violation of a state or federal environmental protection law. The bill also requires the applicant to furnish information concerning any criminal penalty or civil penalty of

if the  
civil  
penalty  
or  
requirement

**ASSEMBLY BILL 459**

*if the civil penalty or requirement*

more than \$10,000 Canadian, or any requirement to pay restitution in an amount of more than \$10,000 Canadian or to expend more than \$10,000 Canadian to remedy environmental pollution, ~~that~~ is imposed on the applicant or a related person for a violation of an environmental protection law arising out of the operation of a mining site in Canada.

Under current law, DNR is required to deny a permit to mine for metallic minerals under specified circumstances related to the conduct of the applicant or related persons. DNR is required to deny a mining permit if the applicant or a related person has, within <sup>ten</sup>10 years before applying, been convicted of more than one felony for mining-related violations of state or federal environmental protection laws unless the person convicted has been pardoned, the applicant terminates its relationship with the convicted person or the applicant submits a plan to prevent the occurrence of events similar to those that resulted in the convictions.

This bill eliminates the provision that allows an applicant that has committed more than one mining-related felony, or that is related to a person that has committed more than one mining-related felony, to obtain a mining permit upon submission to DNR of a plan to prevent similar occurrences. This bill also requires DNR to deny a mining permit if the applicant or a related person has demonstrated, by a pattern of the occurrences required to be reported to DNR, an unwillingness or inability to comply with environmental protection laws.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 293.37 (2) (e) 1. e. and f. of the statutes are created to read:

293.37 (2) (e) 1. e. Any forfeiture or other civil penalty of more than \$10,000 or any requirement to pay restitution in an amount of more than \$10,000 or to remedy environmental pollution, if the cost of the remedy was more than \$10,000, imposed by a court or an administrative agency on the applicant, a related person, or an officer or director of the applicant at the conclusion of a contested judicial or administrative proceeding or by consent decree or other agreement among the parties as the result of a violation of a law for the protection of the natural environment arising out of the operation of a mining site in the United States.

**ASSEMBLY BILL 459**

1 f. Any criminal penalty or any civil penalty of more than \$10,000 Canadian or  
 2 any requirement to pay restitution in an amount of more than \$10,000 Canadian or  
 3 to remedy environmental pollution, if the cost of the remedy was more than \$10,000  
 4 Canadian, imposed by a court or an administrative agency on the applicant, a related  
 5 person, or an officer or director of the applicant at the conclusion of a contested  
 6 judicial or administrative proceeding or by consent decree or other agreement among  
 7 the parties as the result of a violation of a law for the protection of the natural  
 8 environment arising out of the operation of a mining site in Canada.

9 **SECTION 2.** 293.49 (2) (d) 3. of the statutes is repealed.

10 **SECTION 3.** 293.49 (2) (g) of the statutes is created to read:

11 293.49 (2) (g) That the applicant, a related person, or an officer or director of  
 12 the applicant has demonstrated, by a pattern of behavior that resulted in  
 13 occurrences that are required to be reported under s. 293.37 (2) (e) 1., an  
 14 unwillingness or inability to comply with environmental protection laws.

15 **SECTION 4. Nonstatutory provisions.**

16 (1) If a person has applied for a mining permit under section 293.37 of the  
 17 statutes before the effective date of this subsection, and the department of natural  
 18 resources has not approved or denied the application before the effective date of this  
 19 subsection, the person shall submit the information required by section 293.37 (2)  
 20 (e) 1. e. and f. of the statutes, as created by this act, no later than the first day of the

21 3rd month beginning after the effective date of this subsection, and the department  
 22 may not approve the application before the person submits the information

23 **SECTION 5. Initial applicability.**

required by Section  
293.37 (2)  
(e) 1. e. and f.  
of the statutes,  
as created by  
this act.



# State Representative Spencer Black

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State Capitol  
P.O. Box 8952  
Madison, WI 53708  
(608) 266-7521

September <sup>20</sup>~~14~~, 2001

To: Rebecca Tradewell, Managing Attorney  
Legislative Reference Bureau

From: Susan McMurray, Rep. Black's office

Re: LRB 0213/1, denial of mining permits to certain persons

Rep. Black has asked me to present to you some suggestions for modifications to LRB 0213/1.

I am enclosing a memo entitled "Close the loophole in Wisconsin's Mining Bad Actor law" for you, and request that you use the suggestions in this memo as the basis for the "/2" draft. The memo contains 3 pages of suggested changes to chapter 293 of the Wisconsin statutes.

Thank you for your work on these and other bills for Rep. Black. Please call me at 266-7521 if you have any questions.

## Close the loopholes in Wisconsin's Mining Bad Actor law

Wisconsin's bad actor law generally requires the DNR to deny a mining permit if the applicant or a related person (such as a corporate parent) is violating state law, has been convicted on more than one felony violation of environmental laws in the United States or has failed to reclaim a U.S. mining site. However, several loopholes in the law are needed to keep environmental bad actors out of Wisconsin.

- 1. Close the new-owner loopholes.** Repeal the loophole that exempts owners that did not own the applicant when their bad actions occurred. Repeal § 293.49(3). Also change the definition of "related person" so that it includes those with ownership interests while the mining permit application is pending, rather than only owners at the time of filing. § 293.01(26).
- 2. Repeal the "promise I'll be good" loophole.** Repeal the provision allowing permits to be granted to mining operators with felony violations if they submit plans to prevent the occurrence of similar events in Wisconsin. Repeal § 293.45(2)(d)3.
- 3. Apply the statute to violations that occur after applying for a mining permit.** Clarify that the various bad actor provisions apply to activities that occur *any time* after 10 years prior to the permit application, not just the 10 years *prior* to submittal of the application. Amend § 293.45(2)(c), (d), (e) and (f) and § 293.37(2)(e)1. Require applicants to update the DNR with new relevant information. Create § 293.37(5), Stats.
- 4. Consider mining activities elsewhere.** Make the bad actor provisions applicable to mining operations, whether they are located in the United States or elsewhere. Amend § 293.45(2)(c), (d), (e) and (f) and § 293.37(2)(e)1.
- 5. Create new categories of bad actions.** Add a new bad actor provision to prevent applicants or related parties from operating in the state if their operations have caused more than \$20 million in environmental contamination during the period beginning 10 years before the mining application. Create § 293.45(2)(g) and § 293.27(2)(e)1.e. Add a new bad actor provision to prevent applicants or related parties from operating in the state if their operations have caused more than 100,000 tons of unpermitted releases or spills of contaminants or mining wastes during the period beginning 10 years before the mining application. Create § 293.45(2)(h) and § 293.27(2)(e)1.f.
- 6. Close related party loophole.** Ban permits when related parties, not just applicants, are currently violating Wisconsin mining laws. § 293.49(2)(b).

## BAD ACTOR – DRAFTING INSTRUCTIONS

Deletions appear as Overstrike text surrounded by {}

Additions appear as Bold text surrounded by []

### AMEND SECTION 293.01(26) TO READ:

(26) “Related person” means any person that owns or operates a mining site ~~{in the United States}~~ and that is one of the following when an application for a mining permit is ~~{submitted to}~~ **[pending before]** the department:

- (a) The parent corporation of the applicant.
- (b) A person that holds more than a 30% ownership interest in the applicant.
- (c) A subsidiary or affiliate of the applicant in which the applicant holds more than a 30% ownership interest.

### AMEND SECTION 293.37(2)(e)1. TO READ:

(e) 1. The information specified in subd. 2. concerning the occurrence of any of the following ~~{within}~~ **[anytime after]** 10 years ~~{before}~~ **[prior to submittal of]** the application ~~{is submitted}~~:

- a. A forfeiture by the applicant, principal shareholder of the applicant or a related person of a mining reclamation bond that was sufficient to cover all costs of reclamation and was posted in accordance with a permit or other approval for a mining operation ~~{in the United States}~~, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted.
- b. A felony conviction of the applicant, a related person or an officer or director of the applicant for a violation of a law for the protection of the natural environment arising out of the operation of a mining site ~~{in the United States}~~.
- c. The bankruptcy or dissolution of the applicant or a related person that resulted in the failure to reclaim a mining site in ~~{the United States in}~~ violation of ~~{a state or federal}~~ law.
- d. The permanent revocation of a mining permit or other mining approval issued to the applicant or a related person if the permit or other mining approval was revoked because of a failure to reclaim a mining site in ~~{the United States in}~~ violation of state or federal law.

CREATE A NEW SECTION 293.37(2)(e)1.e. TO READ:

- e. **[A remediation costing more than \$20 million or damages of more than \$20 million from environmental pollution at or from any mining or mining-waste related operation owned or operated by the applicant, principal shareholder of the applicant or related person.]**

CREATE A NEW SECTION 293.37(2)(e)1.f. TO READ:

- f. **[The unpermitted release or spill of contaminants or mining waste materials that was greater than 100,000 tons in the aggregate at or from any mining or mining-waste related operation owned or operated by the applicant, principal shareholder of the applicant or related person.]**

CREATE A NEW SECTION 293.37(5). TO READ:

**(5) [After the date of submittal of the application and until the department takes final action on the application, the applicant shall update and amend the application if any of the information required under this section changes or if new information relevant to the application is obtained by the applicant or any related person.]**

AMEND SECTION 293.49(2) TO READ:

(2) Within 90 days of the completion of the public hearing record, the department shall deny the mining permit if it finds any of the following:

- (a) That the site is unsuitable for surface mining, if the application is for a proposed surface mine.
- (b) That the applicant **[or related person]** has violated and continues to fail to comply with this chapter or any rule adopted under this chapter.
- (c) That the applicant, principal shareholder of the applicant or a related person ~~{has within}~~, **anytime after** 10 years ~~{before}~~ **[prior to submittal of]** the application ~~{is submitted}~~, **has** forfeited a mining reclamation bond that was posted in accordance with a permit or other approval for a mining operation ~~{in the United States}~~, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted and the amount of the bond was sufficient to cover all costs of reclamation.
- (d) That the applicant, a related person or an officer or director of the applicant ~~{has, within}~~, **anytime after** 10 years ~~{before}~~ **[prior to submittal of]** the

application ~~{is submitted,}~~ **[has]** been convicted of **[one or]** more ~~{than one felony}~~ **[felonies]** for violations of laws for the protection of the natural environment arising out of the operation of a mining site ~~{in the United States}~~, unless one of the following applies:

1. The person convicted has been pardoned for all of the felonies.
  2. The person convicted is a related person or an officer or director of the applicant with whom the applicant terminates its relationship.
  3. ~~{The applicant included in its permit application under §293.37(1) a plan to prevent the occurrence in this state of events similar to the events that directly resulted in the convictions.}~~
- (e) That the applicant or a related person ~~{has, within}~~ **[anytime after]** 10 years ~~{before}~~ **[prior to submittal of]** the application ~~{is submitted,}~~ **[has]** declared bankruptcy or undergone dissolution that resulted in the failure to reclaim a mining site in ~~{the United States in}~~ violation of ~~{a state or federal}~~ law and that failure has not been remedied and is not being remedied.
- (f) That, ~~{within}~~ **[anytime after]** 10 years ~~{before}~~ **[prior to submittal of]** the application ~~{is submitted}~~, a mining permit or other mining approval issued to the applicant or a related person was permanently revoked because of a failure to reclaim a mining site in ~~{the United States in}~~ violation of ~~{state or federal}~~ law and that failure has not been and is not being remedied.

CREATE A NEW SECTION 293.49(2)(g). TO READ:

- (g) **[That, anytime after 10 years prior to submittal of the application, environmental pollution that costs more than \$20 million to remediate or that results in more than \$20 million in damages has occurred at or from any mining or mining-waste related operation owned or operated by the applicant, principal shareholder of the applicant or related person.]**

CREATE A NEW SECTION 293.49(2)(h) TO READ:

- (h) **[That, anytime after 10 years prior to submittal of the application, an unpermitted release or spill of contaminants or mining waste materials exceeding 100,000 tons in the aggregate has occurred at or from any mining or mining-waste related operation owned or operated by the applicant, principal shareholder of the applicant or related person.]**

REPEAL SECTION 293.49(3).

SOON (in 9/28)

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# 2001 BILL

DNote

regenerate  
↓

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 2 293.49 (2) (g) of the statutes; relating to: information concerning persons who  
 3 intend to engage in mining and related entities and denial of mining permits.

### Analysis by the Legislative Reference Bureau

analysis  
insert

Under current law, a person must obtain a mining permit from the department of natural resources (DNR) before beginning to mine for metallic minerals. A person who applies for a mining permit must provide DNR with specified information concerning the forfeiture in the United States of mining reclamation bonds by the applicant or related persons, felony convictions of the applicant or a related person for mining-related violations of state or federal environmental protection laws, financial problems of the applicant or related persons that resulted in failure to reclaim a mining site in the United States, and revocations of mining permits in the United States because of failure to reclaim a mining site. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.

This bill requires a person who applies for a mining permit to provide additional information to DNR. The bill requires the applicant to furnish information concerning any civil penalty or requirement to pay restitution in an amount of more than \$10,000 or to expend more than \$10,000 to remedy environmental pollution if the civil penalty or requirement is imposed on the applicant or a related person for a mining-related violation of a state or federal environmental protection law. The bill also requires the applicant to furnish information concerning any criminal

**BILL**

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~~Under current law, DNR is required to deny a permit to mine for metallic minerals under specified circumstances related to the conduct of the applicant or related persons. DNR is required to deny a mining permit if the applicant or a related person has, within ten years before applying, been convicted of more than one felony for mining-related violations of state or federal environmental protection laws unless the person convicted has been pardoned, the applicant terminates its relationship with the convicted person or the applicant submits a plan to prevent the occurrence of events similar to those that resulted in the convictions.~~

~~This bill eliminates the provision that allows an applicant that has committed more than one mining-related felony, or that is related to a person that has committed more than one mining-related felony, to obtain a mining permit upon submission to DNR of a plan to prevent similar occurrences. This bill also requires DNR to deny a mining permit if the applicant or a related person has demonstrated, by a pattern of the occurrences required to be reported to DNR, an unwillingness or inability to comply with environmental protection laws.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

Insert  
1-1

1  
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~~SECTION 1. 293.37 (2) (e) 1. e. and f. of the statutes are created to read:  
293.37 (2) (e) 1. e. Any forfeiture or other civil penalty of more than \$10,000 or any requirement to pay restitution in an amount of more than \$10,000 or to remedy environmental pollution, if the cost of the remedy was more than \$10,000, imposed by a court or an administrative agency on the applicant, a related person, or an officer or director of the applicant at the conclusion of a contested judicial or administrative proceeding or by consent decree or other agreement among the parties as the result of a violation of a law for the protection of the natural environment arising out of the operation of a mining site in the United States.~~

**BILL**

1 f. Any criminal penalty or any civil penalty of more than \$10,000 Canadian or  
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 6 judicial or administrative proceeding or by consent decree or other agreement among  
 7 the parties as the result of a violation of a law for the protection of the natural  
 8 environment arising out of the operation of a mining site in Canada.

SECTION 2. 293.49 (2) (d) 3. of the statutes is repealed.

SECTION 3. 293.49 (2) (g) of the statutes is created to read:

293.49 (2) (g) That the applicant, a related person, or an officer or director of  
 the applicant has demonstrated, by a pattern of behavior that resulted in  
 occurrences that are required to be reported under s. 293.37 (2) (e) 1., an  
 unwillingness or inability to comply with environmental protection laws.

**SECTION 4. Nonstatutory provisions.**

(1) If a person has applied for a mining permit under section 293.37 of the  
 statutes before the effective date of this subsection, and the department of natural  
 resources has not approved or denied the application before the effective date of this  
 subsection, the person shall submit the <sup>additional</sup> information required by section 293.37 (2)  
 (e) 1. ~~e and f~~ of the statutes, as <sup>affected</sup> created by this act, no later than the first day of the  
 3rd month beginning after the effective date of this subsection. The department may  
 not approve the application before the person submits the <sup>additional</sup> information required by  
 section 293.37 (2) (e) 1. ~~e and f~~ of the statutes, as <sup>affected</sup> created by this act.

**SECTION 5. Initial applicability.**

Insert  
3-9

19  
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23



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0213/2ins  
RCT:.....

*Analysis insert*  
**(NOT)**

DNR must generally deny a mining permit if it determines any of the following:

1. That the applicant is violating this state's mining laws.  
2. That the applicant, a principal shareholder of the applicant, or a related person has, within ~~10~~ <sup>ten</sup> years before the application is submitted, forfeited a mining reclamation bond for a mining operation in the United States. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.

3. That the applicant or a related person has, within 10 years before the application is submitted, declared bankruptcy resulting in the failure to reclaim a mining site in the United States. <sup>ten</sup>

4. That, within ~~10~~ <sup>ten</sup> years before the application is submitted, a mining permit or other mining approval issued to the applicant or a related person was revoked because of a failure to reclaim a mining site in the United States.

5. That the applicant or a related person has, within ten years before the application is submitted, been convicted of more than one felony for violations of state or federal environmental protection laws related to a mine in the United States unless the person convicted has been pardoned, the applicant terminates its relationship with the convicted person, or the applicant submits a plan to prevent the occurrence of events similar to those that resulted in the convictions.

DNR may not deny a mining permit if the person who forfeited a reclamation bond, declared bankruptcy, had a permit revoked, or was convicted of felonies is a related person but was not a related person at the time of the forfeiture, bankruptcy, revocation, or convictions.

This bill changes the provisions concerning denial of a mining permit based on the actions of the applicant or related persons. The bill expands the provisions so that they are not limited to mines located in the United States. The bill also specifies that the provisions apply to events that occur while the application is pending with DNR, in addition to those that occurred within ~~10~~ <sup>ten</sup> years before application. Under the bill, DNR must deny a mining permit if a related person is violating this state's mining laws, as well as if the applicant is violating those laws. Under the bill, only one felony conviction is required for denial of a mining permit, and the exception based on the submission of a plan to prevent future violations is eliminated. The bill also eliminates the provision prohibiting DNR from denying a mining permit if the person who forfeited a reclamation bond, declared bankruptcy, had a permit revoked, or was convicted of felonies is a related person but was not a related person at the time of the forfeiture, bankruptcy, revocation, or convictions.

This bill requires DNR to deny a mining permit if environmental pollution from a mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person necessitated a cleanup that cost more than \$20,000,000 or resulted in more than \$20,000,000 in damages within ~~10~~ <sup>ten</sup> years before the application is filed or while the application is pending. The bill also requires DNR to deny a mining permit if an unauthorized discharge of more than 100,000 tons in the aggregate of contaminants or mining waste occurred, within ~~10~~ <sup>ten</sup>



*end of analysis insert*

years before the application is filed or while the application is pending, from a mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person.

*Insert 1-1*

**SECTION 1.** 293.01 (26) (intro.)<sup>v</sup> of the statutes is amended to read:

293.01 (26) (intro.) "Related person" means any person that owns or operates a mining site ~~in the United States~~ and that is one of the following when an application for a mining permit is ~~submitted to pending before~~ the department:

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 2<sup>1</sup>, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

**SECTION 2.** 293.37 (2) (e) 1. of the statutes is amended to read:

293.37 (2) (e) 1. The information specified in subd. 2. concerning the occurrence of any of the following ~~within 10 years before~~ at any time beginning on the first day of the 120th month before the month in which the application is submitted:

a. A forfeiture by the applicant, principal shareholder of the applicant or a related person of a mining reclamation bond that was sufficient to cover all costs of reclamation and was posted in accordance with a permit or other approval for a mining operation ~~in the United States~~, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted.

b. A ~~felony~~ criminal conviction of the applicant, a related person or an officer or director of the applicant for a violation of a law for the protection of the natural environment arising out of the operation of a mining site ~~in the United States~~ if the maximum term of imprisonment for the violation is at least one year.

c. The bankruptcy or dissolution of the applicant or a related person that resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a ~~state or federal~~ law.

d. The permanent revocation of a mining permit or other mining approval issued to the applicant or a related person if the permit or other mining approval was

Insert 1-1

revoked because of a failure to reclaim a mining site in the United States in violation of state or federal law.

History: 1995 a. 227 s. 770, 772, 774, 775, 776, 994; 1997 a. 169.

SECTION 3. 293.37 (2) (e) 1. e. of the statutes is created to read:

293.37 (2) (e) 1. e. A cleanup costing more than \$20,000,000 necessitated by, or damages of more than \$20,000,000 resulting from, pollution from any mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person.

SECTION 4. 293.37 (2) (e) 1. f. of the statutes is created to read:

293.37 (2) (e) 1. f. The unauthorized discharge of more than 100,000 tons in the aggregate of contaminants or mining waste from any mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person.

SECTION 5. 293.37 (5) of the statutes is created to read:

293.37 (5) An applicant shall notify the department of any changes or corrections in the information required under this section of which the applicant becomes aware while the application is pending before the department.

SECTION 6. 293.49 (2) (b) of the statutes is amended to read:

293.49 (2) (b) That the applicant or a related person has violated and continues to fail to comply with this chapter or any rule adopted under this chapter.

History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

SECTION 7. 293.49 (2) (c) of the statutes is amended to read:

293.49 (2) (c) That the applicant, a principal shareholder of the applicant, or a related person has ~~within 10 years before~~ at any time beginning on the first day of the 120th month before the month in which the application is submitted forfeited a mining reclamation bond that was posted in accordance with a permit or other

↓

approval for a mining operation ~~in the United States~~, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted and the amount of the bond was sufficient to cover all costs of reclamation.

History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

**SECTION 8.** 293.49 (2) (d) (intro.) of the statutes is amended to read:

293.49 (2) (d) (intro.) That the applicant, a related person or an officer or director of the applicant has, ~~within 10 years before~~ at any time beginning on the first day of the 120th month before the month in which the application is submitted, been convicted of ~~more than one felony for violations of laws~~ a crime for violating a law for the protection of the natural environment arising out of the operation of a mining site ~~in the United States~~, if the maximum term of imprisonment for the violation is at least one year, unless one of the following applies:

*end of insert 1-1*

History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

**SECTION 9.** 293.49 (2) (e) of the statutes is amended to read:

*Insert  
3-9*

293.49 (2) (e) That the applicant or a related person has, ~~within 10 years before~~ at any time beginning on the first day of the 120th month before the month in which the application is submitted, declared bankruptcy or undergone dissolution that resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a ~~state or federal law~~ and that failure has not been remedied and is not being remedied.

History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

**SECTION 10.** 293.49 (2) (f) of the statutes is amended to read:

293.49 (2) (f) That, ~~within 10 years before~~ at any time beginning on the first day of the 120th month before the month in which the application is submitted, a mining permit or other mining approval issued to the applicant or a related person was permanently revoked because of a failure to reclaim a mining site ~~in the United~~

*[Handwritten mark]*

States in violation of ~~state or federal~~ law and that failure has not been and is not being remedied.

History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

**SECTION 11.** 293.49 (2) (g) of the statutes is created to read:

293.49 (2) (g) That, at any time beginning on the first day of the 120th month before the month in which the application is submitted, environmental pollution from any mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person necessitated a cleanup that cost more than \$20,000,000 or resulted in more than \$20,000,000 in damages.

**SECTION 12.** 293.49 (2) (h) of the statutes is created to read:

293.49 (2) (h) That, at any time beginning on the first day of the 120th month before the month in which the application is submitted, an unauthorized discharge of more than 100,000 tons in the aggregate of contaminants or mining waste occurred from any mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person.

**SECTION 13.** 293.49 (3) of the statutes is repealed.

*end of insert 3-9*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0213/2dn

RCT./:....

WLj

Susan McMurray:

This is the redraft of the changes to the mining "bad actor" law. Because the redraft instructions appeared to be a complete description of the desired changes in the law, I have removed the provisions of 01-0213/1 that were not described in the redraft instructions.

Current law requires DNR to deny mining permits in some cases in which the applicant or a related person has felony convictions. This redraft expands the bad actor law so that it applies to convictions related to mines outside of the United States. The laws of at least some other countries do not have the distinction between misdemeanors and felonies, so I modified the statutory language to refer to crimes for which the maximum term of imprisonment is at least one year.

As requested, this redraft adds provisions requiring DNR to deny permits based on pollution caused by and discharges from other mines. It seems to <sup>me</sup> be that it might be difficult to apply those in some circumstances. For example, it might be difficult to determine whether a discharge amounted to more than 100,000 tons or whether pollution resulted in more than \$20,000,000 in damages. Also, a cleanup may take many years, so it may be difficult to say whether pollution necessitated a cleanup that cost more than \$20,000,000 within the specified period.

Please let me know if you have questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0213/2dn  
RCT:wlj:kjf

October 2, 2001

Susan McMurray:

This is the redraft of the changes to the mining "bad actor" law. Because the redraft instructions appeared to be a complete description of the desired changes in the law, I have removed the provisions of 01-0213/1 that were not described in the redraft instructions.

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As requested, this redraft adds provisions requiring DNR to deny permits based on pollution caused by and discharges from other mines. It seems to me that it might be difficult to apply those in some circumstances. For example, it might be difficult to determine whether a discharge amounted to more than 100,000 tons or whether pollution resulted in more than \$20,000,000 in damages. Also, a cleanup may take many years, so it may be difficult to say whether pollution necessitated a cleanup that cost more than \$20,000,000 within the specified period.

Please let me know if you have questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

# State Representative Spencer Black

---



State Capitol  
P.O. Box 8952  
Madison, WI 53708  
(608) 266-7521

Monday, December 3, 2001

To: Becky Tradewell  
Legislative Reference Bureau

From: Susan McMurray *Susan*  
Rep. Black's office 266-7521

Re: LRB 0213/2

Spence has looked over the draft and says it looks good. He only asks for a few changes.

p. 4, line 1: strike "A cleanup " and write in "An environmental response "; also, after "\$20,000,000" insert "in aggregate".

p. 6, line 1 after "necessitated" strike "a cleanup" and insert "an environmental response".

p. 6 line 2, after "\$20,000,000" insert "in aggregate" and after "damages" insert "in aggregate."

That's all that we need, at this point. Thanks very much.

**Martin Schreiber & Associates, Inc.**  
15 N. Pinckney Street  
Madison, WI 53703  
[www.martinschreiber.com](http://www.martinschreiber.com)  
(608) 259-1212 Fax (608) 259-1213

DATE: Wednesday, November 28, 2001 TIME:

TO: Susan McMurray  
Office of Rep. Spencer Black

FAX: 282-3677

---

FR: Bill McClenahan  
Martin Schreiber & Associates, Inc.  
[bill@martinschreiber.com](mailto:bill@martinschreiber.com)

PHONE: (608) 259-1212, ext. 4

FAX: (608) 259-1213

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NUMBER OF PAGES (INCLUDING THIS COVER): 8

COMMENTS: A minor suggestion on the bad actor draft from our attorneys. Otherwise, this looks good.

**GODFREY & KAHN, S. C.**  
ATTORNEYS AT LAW  
780 NORTH WATER STREET  
MILWAUKEE, WI 53202-3590  
www.gklaw.com

PHONE: 414-273-3500

FAX: 414-273-5198

**FAX COVER SHEET**

DATE: November 21, 2001

PAGES (INCLUDING COVER): 7

TO: Bill McClenahan FAX: 608-259-1213  
COMPANY: Marty Schreiber & Associates

CLIENT NUMBER: 053026-0029

FROM: Steve Ziesmann x5543

MESSAGE: Please see minor revisions on pages 4 & 6. Please call John or me if you have any questions

**IF YOU HAVE A PROBLEM RECEIVING THIS TRANSMISSION, PLEASE CALL US AS SOON AS POSSIBLE AT 414-273-3500.**

**THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE.** This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

Sent By: \_\_\_\_\_

2001 - 2002 LEGISLATURE

LRB-0213/2  
RCT:wj:kjf

2001 BILL

1 AN ACT *to repeal* 293.49 (2) (d) 3. and 293.49 (3); *to amend* 293.01 (26) (intro.),  
2 293.37 (2) (e) 1., 293.49 (2) (b), 293.49 (2) (c), 293.49 (2) (d) (intro.), 293.49 (2)  
3 (e) and 293.49 (2) (f); and *to create* 293.37 (2) (e) 1. e., 293.37 (2) (e) 1. f., 293.37  
4 (5), 293.49 (2) (g) and 293.49 (2) (h) of the statutes; **relating to:** information  
5 concerning persons who intend to engage in mining and related entities and  
6 denial of mining permits.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person must obtain a mining permit from the department of natural resources (DNR) before beginning to mine for metallic minerals. DNR must generally deny a mining permit if it determines any of the following:

1. That the applicant is violating this state's mining laws.
2. That the applicant, a principal shareholder of the applicant, or a related person has, within ten years before the application is submitted, forfeited a mining reclamation bond for a mining operation in the United States. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.
3. That the applicant or a related person has, within 10 years before the application is submitted, declared bankruptcy resulting in the failure to reclaim a mining site in the United States.

2001 - 2002 Legislature

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LRB-0213/2  
RCT:wj:kjf

**BILL**

4. That, within ten years before the application is submitted, a mining permit or other mining approval issued to the applicant or a related person was revoked because of a failure to reclaim a mining site in the United States.

5. That the applicant or a related person has, within ten years before the application is submitted, been convicted of more than one felony for violations of state or federal environmental protection laws related to a mine in the United States unless the person convicted has been pardoned, the applicant terminates its relationship with the convicted person, or the applicant submits a plan to prevent the occurrence of events similar to those that resulted in the convictions.

DNR may not deny a mining permit if the person who forfeited a reclamation bond, declared bankruptcy, had a permit revoked, or was convicted of felonies is a related person but was not a related person at the time of the forfeiture, bankruptcy, revocation, or convictions.

This bill changes the provisions concerning denial of a mining permit based on the actions of the applicant or related persons. The bill expands the provisions so that they are not limited to mines located in the United States. The bill also specifies that the provisions apply to events that occur while the application is pending with DNR, in addition to those that occurred within ten years before application. Under the bill, DNR must deny a mining permit if a related person is violating this state's mining laws, as well as if the applicant is violating those laws. Under the bill, only one felony conviction is required for denial of a mining permit, and the exception based on the submission of a plan to prevent future violations is eliminated. The bill also eliminates the provision prohibiting DNR from denying a mining permit if the person who forfeited a reclamation bond, declared bankruptcy, had a permit revoked, or was convicted of felonies is a related person but was not a related person at the time of the forfeiture, bankruptcy, revocation, or convictions.

This bill requires DNR to deny a mining permit if environmental pollution from a mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person necessitated a cleanup that cost more than \$20,000,000 or resulted in more than \$20,000,000 in damages within ten years before the application is filed or while the application is pending. The bill also requires DNR to deny a mining permit if an unauthorized discharge of more than 100,000 tons in the aggregate of contaminants or mining waste occurred, within ten years before the application is filed or while the application is pending, from a mine or mining waste facility owned or operated by the applicant, a principal shareholder of the applicant, or a related person.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1

**SECTION 1.** 293.01 (26) (intro.) of the statutes is amended to read:

2001 - 2002 Legislature

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LRB-0213/2  
RCT:wj:kjf  
SECTION 1

**BILL**

1           293.01 (26) (intro.) "Related person" means any person that owns or operates  
2 a mining site ~~in the United States~~ and that is one of the following when an application  
3 for a mining permit is ~~submitted to~~ pending before the department:

4           **SECTION 2.** 293.37 (2) (e) 1. of the statutes is amended to read:

5           293.37 (2) (e) 1. The information specified in subd. 2. concerning the occurrence  
6 of any of the following ~~within 10 years before~~ at any time beginning on the first day  
7 of the 120th month before the month in which the application is submitted:

8           a. A forfeiture by the applicant, principal shareholder of the applicant or a  
9 related person of a mining reclamation bond that was sufficient to cover all costs of  
10 reclamation and was posted in accordance with a permit or other approval for a  
11 mining operation ~~in the United States~~, unless the forfeiture was by agreement with  
12 the entity for whose benefit the bond was posted.

13           b. A ~~felony criminal~~ conviction of the applicant, a related person or an officer  
14 or director of the applicant for a violation of a law for the protection of the natural  
15 environment arising out of the operation of a mining site ~~in the United States~~ if the  
16 maximum term of imprisonment for the violation is at least one year.

17           c. The bankruptcy or dissolution of the applicant or a related person that  
18 resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a  
19 ~~state or federal~~ law.

20           d. The permanent revocation of a mining permit or other mining approval  
21 issued to the applicant or a related person if the permit or other mining approval was  
22 revoked because of a failure to reclaim a mining site ~~in the United States~~ in violation  
23 of ~~state or federal~~ law.

24           **SECTION 3.** 293.37 (2) (e) 1. e. of the statutes is created to read:

2001 - 2002 Legislature

- 4 -

LRB-0213/2  
RCT:wlj:kjf  
SECTION 3

**BILL**

*Environmental response*

*in aggregate*

1           293.37 (2) (e) 1. e. ~~A cleanup~~ costing more than \$20,000,000 necessitated by,  
 2           or damages of more than \$20,000,000 resulting from, pollution from any mine or  
 3           mining waste facility owned or operated by the applicant, a principal shareholder of  
 4           the applicant, or a related person. *in aggregate*

5           **SECTION 4.** 293.37 (2) (e) 1. f. of the statutes is created to read:

6           293.37 (2) (e) 1. f. The unauthorized discharge of more than 100,000 tons in the  
 7           aggregate of contaminants or mining waste from any mine or mining waste facility  
 8           owned or operated by the applicant, a principal shareholder of the applicant, or a  
 9           related person.

10          **SECTION 5.** 293.37 (5) of the statutes is created to read:

11          293.37 (5) An applicant shall notify the department of any changes or  
 12          corrections in the information required under this section of which the applicant  
 13          becomes aware while the application is pending before the department.

14          **SECTION 6.** 293.49 (2) (b) of the statutes is amended to read:

15          293.49 (2) (b) That the applicant ~~or a related person~~ has violated and continues  
 16          to fail to comply with this chapter or any rule adopted under this chapter.

17          **SECTION 7.** 293.49 (2) (c) of the statutes is amended to read:

18          293.49 (2) (c) That the applicant, a principal shareholder of the applicant, or  
 19          a related person has ~~within 10 years before~~ at any time beginning on the first day  
 20          of the 120th month before the month in which the application is submitted forfeited  
 21          a mining reclamation bond that was posted in accordance with a permit or other  
 22          approval for a mining operation ~~in the United States~~, unless the forfeiture was by  
 23          agreement with the entity for whose benefit the bond was posted and the amount of  
 24          the bond was sufficient to cover all costs of reclamation.

25          **SECTION 8.** 293.49 (2) (d) (intro.) of the statutes is amended to read:

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RCT:wlj:kjf  
SECTION 8

**BILL**

1           293.49 (2) (d) (intro.) That the applicant, a related person or an officer or  
 2 director of the applicant has, ~~within 10 years before~~ at any time beginning on the first  
 3 day of the 120th month before the month in which the application is submitted, been  
 4 convicted of ~~more than one felony for violations of laws~~ a crime for violating a law for  
 5 the protection of the natural environment arising out of the operation of a mining site  
 6 ~~in the United States, if the maximum term of imprisonment for the violation is at~~  
 7 least one year, unless one of the following applies:

8           **SECTION 9.** 293.49 (2) (d) 3. of the statutes is repealed.

9           **SECTION 10.** 293.49 (2) (e) of the statutes is amended to read:

10           293.49 (2) (e) That the applicant or a related person has, ~~within 10 years before~~  
 11 at any time beginning on the first day of the 120th month before the month in which  
 12 the application is submitted, declared bankruptcy or undergone dissolution that  
 13 resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a  
 14 ~~state or federal law~~ and that failure has not been remedied and is not being remedied.

15           **SECTION 11.** 293.49 (2) (f) of the statutes is amended to read:

16           293.49 (2) (f) That, ~~within 10 years before~~ at any time beginning on the first  
 17 day of the 120th month before the month in which the application is submitted, a  
 18 mining permit or other mining approval issued to the applicant or a related person  
 19 was permanently revoked because of a failure to reclaim a mining site ~~in the United~~  
 20 ~~States~~ in violation of ~~state or federal law~~ and that failure has not been and is not  
 21 being remedied.

22           **SECTION 12.** 293.49 (2) (g) of the statutes is created to read:

23           293.49 (2) (g) That, at any time beginning on the first day of the 120th month  
 24 before the month in which the application is submitted, environmental pollution  
 25 from any mine or mining waste facility owned or operated by the applicant, a

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LRB-0213/2  
RCT:wj:kjf  
SECTION 12

**BILL**

1 principal shareholder of the applicant, or a related person necessitated ~~a cleanup~~ *environmental response*  
2 that cost more than \$20,000,000 or resulted in more than \$20,000,000 in damages, *in aggregate*

3 **SECTION 13.** 293.49 (2) (h) of the statutes is created to read; *in aggregate*

4 293.49 (2) (h) That, at any time beginning on the first day of the 120th month  
5 before the month in which the application is submitted, an unauthorized discharge  
6 of more than 100,000 tons in the aggregate of contaminants or mining waste occurred  
7 from any mine or mining waste facility owned or operated by the applicant, a  
8 principal shareholder of the applicant, or a related person.

9 **SECTION 14.** 293.49 (3) of the statutes is repealed.

10 **SECTION 15. Nonstatutory provisions.**

11 (1) If a person has applied for a mining permit under section 293.37 of the  
12 statutes before the effective date of this subsection, and the department of natural  
13 resources has not approved or denied the application before the effective date of this  
14 subsection, the person shall submit the additional information required by section  
15 293.37 (2) (e) 1. of the statutes, as affected by this act, no later than the first day of  
16 the 3rd month beginning after the effective date of this subsection. The department  
17 may not approve the application before the person submits the additional  
18 information required by section 293.37 (2) (e) 1. of the statutes, as affected by this act.

19 **SECTION 16. Initial applicability.**

20 (1) This act first applies to an application for a mining permit that the  
21 department of natural resources approves or denies on the effective date of this  
22 subsection.

23 (END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

SD CN

LRB-0213-3

RCT:wlj:kjf

JLd YmY

2001 BILL

Regen

1 AN ACT *to repeal* 293.49 (2) (d) 3. and 293.49 (3); *to amend* 293.01 (26) (intro.),  
2 293.37 (2) (e) 1., 293.49 (2) (b), 293.49 (2) (c), 293.49 (2) (d) (intro.), 293.49 (2)  
3 (e) and 293.49 (2) (f); and *to create* 293.37 (2) (e) 1. e., 293.37 (2) (e) 1. f., 293.37  
4 (5), 293.49 (2) (g) and 293.49 (2) (h) of the statutes; **relating to:** information  
5 concerning persons who intend to engage in mining and related entities and  
6 denial of mining permits.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person must obtain a mining permit from the department of natural resources (DNR) before beginning to mine for metallic minerals. DNR must generally deny a mining permit if it determines any of the following:

1. That the applicant is violating this state's mining laws.
2. That the applicant, a principal shareholder of the applicant, or a related person has, within ten years before the application is submitted, forfeited a mining reclamation bond for a mining operation in the United States. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.
3. That the applicant or a related person has, within 10 years before the application is submitted, declared bankruptcy resulting in the failure to reclaim a mining site in the United States.



**BILL**

1           293.01 (26) (intro.) "Related person" means any person that owns or operates  
2 a mining site in the United States and that is one of the following when an application  
3 for a mining permit is ~~submitted to~~ pending before the department:

4           **SECTION 2.** 293.37 (2) (e) 1. of the statutes is amended to read:

5           293.37 (2) (e) 1. The information specified in subd. 2. concerning the occurrence  
6 of any of the following ~~within 10 years before~~ at any time beginning on the first day  
7 of the 120th month before the month in which the application is submitted:

8           a. A forfeiture by the applicant, principal shareholder of the applicant or a  
9 related person of a mining reclamation bond that was sufficient to cover all costs of  
10 reclamation and was posted in accordance with a permit or other approval for a  
11 mining operation ~~in the United States~~, unless the forfeiture was by agreement with  
12 the entity for whose benefit the bond was posted.

13           b. A ~~felony~~ criminal conviction of the applicant, a related person or an officer  
14 or director of the applicant for a violation of a law for the protection of the natural  
15 environment arising out of the operation of a mining site ~~in the United States~~ if the  
16 maximum term of imprisonment for the violation is at least one year.

17           c. The bankruptcy or dissolution of the applicant or a related person that  
18 resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a  
19 ~~state or federal law.~~

20           d. The permanent revocation of a mining permit or other mining approval  
21 issued to the applicant or a related person if the permit or other mining approval was  
22 revoked because of a failure to reclaim a mining site ~~in the United States~~ in violation  
23 of ~~state or federal law.~~

24           **SECTION 3.** 293.37 (2) (c) 1. e. of the statutes is created to read:

**BILL**

*An environmental response* ✓  
*in the aggregate*

1

293.37 (2) (e) 1. e. A cleanup costing more than \$20,000,000 necessitated by,

2

or damages of more than \$20,000,000 *in the aggregate* resulting from, pollution from any mine or

3 mining waste facility owned or operated by the applicant, a principal shareholder of

4 the applicant, or a related person.

5 SECTION 4. 293.37 (2) (e) 1. f. of the statutes is created to read:

6 293.37 (2) (e) 1. f. The unauthorized discharge of more than 100,000 tons in the

7 aggregate of contaminants or mining waste from any mine or mining waste facility

8 owned or operated by the applicant, a principal shareholder of the applicant, or a

9 related person.

10 SECTION 5. 293.37 (5) ✓ of the statutes is created to read:

11 293.37 (5) An applicant shall notify the department of any changes or

12 corrections in the information required under this section of which the applicant

13 becomes aware while the application is pending before the department.

14 SECTION 6. 293.49 (2) (b) ✓ of the statutes is amended to read:

15 293.49 (2) (b) That the applicant or a related person has violated and continues

16 to fail to comply with this chapter or any rule adopted under this chapter.

17 SECTION 7. 293.49 (2) (c) ✓ of the statutes is amended to read:

18 293.49 (2) (c) That the applicant, a principal shareholder of the applicant, or

19 a related person has ~~within 10 years before~~ at any time beginning on the first day

20 of the 120th month before the month in which the application is submitted forfeited

21 a mining reclamation bond that was posted in accordance with a permit or other

22 approval for a mining operation in the United States, unless the forfeiture was by

23 agreement with the entity for whose benefit the bond was posted and the amount of

24 the bond was sufficient to cover all costs of reclamation.

25 SECTION 8. 293.49 (2) (d) ✓ (intro.) of the statutes is amended to read:

**BILL**

1           293.49 (2) (d) (intro.) That the applicant, a related person or an officer or  
2 director of the applicant has, ~~within 10 years before at any time beginning on the first~~  
3 day of the 120th month before the month in which the application is submitted, been  
4 convicted of ~~more than one felony for violations of laws~~ a crime for violating a law for  
5 the protection of the natural environment arising out of the operation of a mining site  
6 ~~in the United States, if the maximum term of imprisonment for the violation is at~~  
7 least one year, unless one of the following applies:

8           **SECTION 9.** 293.49 (2) (d) 3. <sup>✓</sup> of the statutes is repealed.

9           **SECTION 10.** 293.49 (2) (e) <sup>✓</sup> of the statutes is amended to read:

10           293.49 (2) (e) That the applicant or a related person has, ~~within 10 years before~~  
11 at any time beginning on the first day of the 120th month before the month in which  
12 the application is submitted, declared bankruptcy or undergone dissolution that  
13 resulted in the failure to reclaim a mining site ~~in the United States~~ in violation of a  
14 ~~state or federal~~ law and that failure has not been remedied and is not being remedied.

15           **SECTION 11.** 293.49 (2) (f) <sup>✓</sup> of the statutes is amended to read:

16           293.49 (2) (f) That, ~~within 10 years before at any time beginning on the first~~  
17 day of the 120th month before the month in which the application is submitted, a  
18 mining permit or other mining approval issued to the applicant or a related person  
19 was permanently revoked because of a failure to reclaim a mining site ~~in the United~~  
20 ~~States~~ in violation of ~~state or federal~~ law and that failure has not been and is not  
21 being remedied.

22           **SECTION 12.** 293.49 (2) (g) <sup>✓</sup> of the statutes is created to read:

23           293.49 (2) (g) That, at any time beginning on the first day of the 120th month  
24 before the month in which the application is submitted, environmental pollution  
25 from any mine or mining waste facility owned or operated by the applicant, a

**BILL**

*an environmental response*  
*cleanup*  
*in the aggregate*  
*in the aggregate*

1 principal shareholder of the applicant, or a related person necessitated <sup>in the aggregate</sup> a cleanup  
2 that cost more than \$20,000,000, or resulted in more than \$20,000,000 <sup>in the aggregate</sup> in damages.

3 **SECTION 13.** 293.49 (2) (h) of the statutes is created to read:

4 293.49 (2) (h) That, at any time beginning on the first day of the 120th month  
5 before the month in which the application is submitted, an unauthorized discharge  
6 of more than 100,000 tons in the aggregate of contaminants or mining waste occurred  
7 from any mine or mining waste facility owned or operated by the applicant, a  
8 principal shareholder of the applicant, or a related person.

9 **SECTION 14.** 293.49 (3) of the statutes is repealed.

10 **SECTION 15. Nonstatutory provisions.**

11 (1) If a person has applied for a mining permit under section 293.37 of the  
12 statutes before the effective date of this subsection, and the department of natural  
13 resources has not approved or denied the application before the effective date of this  
14 subsection, the person shall submit the additional information required by section  
15 293.37 (2) (e) 1. of the statutes, as affected by this act, no later than the first day of  
16 the 3rd month beginning after the effective date of this subsection. The department  
17 may not approve the application before the person submits the additional  
18 information required by section 293.37 (2) (e) 1. of the statutes, as affected by this act.

19 **SECTION 16. Initial applicability.**

20 (1) This act first applies to an application for a mining permit that the  
21 department of natural resources approves or denies on the effective date of this  
22 subsection.

23 (END)

**Barman, Mike**

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**From:** McMurray, Susan  
**Sent:** Wednesday, December 12, 2001 9:05 AM  
**To:** Barman, Mike  
**Subject:** a request

Hi Mike,

Could you please send me an electronic copy of LRB 0213/3 written for Rep. Black by Becky Tradewell?

(Once again, I forgot to ask Becky to send it via email. Sorry).

Susan McMurray  
Rep. Black's office  
266-7521

**Emery, Lynn**

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**From:** McMurray, Susan  
**Sent:** Thursday, March 07, 2002 4:39 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-0213/3 Topic: Denial of mining permits to certain persons

It has been requested by <McMurray, Susan> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0213/3 Topic: Denial of mining permits to certain persons

**Beam, Laura**

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**From:** McMurray, Susan  
**Sent:** Thursday, March 07, 2002 4:39 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-0213/3 Topic: Denial of mining permits to certain persons

It has been requested by <McMurray, Susan> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0213/3 Topic: Denial of mining permits to certain persons