

1997-98 SESSION
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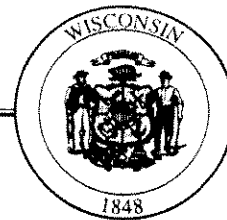
Senate Committee on
Agriculture and
Environmental
Resources
(SC-AER)

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Thomas D. Ourada
Wisconsin State Representative



February 25, 1998

Testimony on Assembly Bill 488
Representative Tom Ourada

Senate Committee on Agriculture and Environmental Resources
Senator Alice Clausing, Chair
February 25, 1998 - Room 2 LL - 119 MLK Blvd.

Madam Chair and members of the Senate Committee on Agriculture and Environmental Resources, thank you very much for holding today's public hearing on Assembly Bill (AB) 488, relating to prospecting and mining fees.

I introduced AB 488 in August of 1997 in order to ensure that mining companies interested in mining in Wisconsin make good on any bills that they owe to the state. Our current statutes lack the necessary enforcement needed to get companies prospecting or applying for a mining permit to pay for the costs incurred by the Department of Natural Resources (DNR) when they are reviewing the request to mine.

Under current law, when a person or company is applying for a prospecting or mining permit in the state, the DNR can bill for costs associated with the Environmental Impact Statement (EIS) on a quarterly basis. However, other costs are not billed to the company until the end of the entire process. The bill would allow the DNR to bill annually for these costs and require these costs to be paid regardless of the outcome of the application or if the company discontinues seeking the permit, or never formally submits a request.

There have been problems in the past where a company ceased interest in obtaining a permit to mine in Wisconsin. The most recent case was in Oneida County involving Noranda Minerals, who eventually backed out of seeking a permit. However, a significant amount of preliminary work was done by DNR staff totaling more than \$300,000. Noranda refused to pay the amount owed for the work already done. Situations like this are unacceptable, and this legislation will safeguard the State of Wisconsin in the event that a permit is denied or if a permit is no longer sought. It is important that companies who want to mine in our state pay their bills.

AB 488 passed the Assembly January 22, 1998, on a vote of 97-0. Support of this bill by members of the committee would be greatly appreciated by myself, and all of the legislators who support this important piece of legislation.

Again, thank you for holding this public hearing, and thank you for your consideration on this important piece of legislation.

Firm seeks to stiff state

The DNR let Noranda run up \$300,000 tab that it's now refusing to pay.

By WILL FANTLE

Canadian-based Noranda Minerals is refusing to pay a \$300,000 bill to the state of Wisconsin for DNR work connected with the company's abandoned mining project near Rhinelander. "We are very interested in getting compensation," says DNR chief George Meyer.

The state's mining regulators have been trying to collect the money since at least September 1996, but their efforts have been met by denial and outright hostility from Noranda.

"What's happened with Noranda is all too typical of mining companies across the country," charges state Rep. Spencer Black (D-Madison), a mining foe. He says it's another example of a "take the money and run" mentality.

Noranda had been considering mining the copper/zinc deposit since 1989, when its discovery was announced. The ore body lay under a wetland—and next to a stream—about one mile south of the Willow Flowage. DNR staff helped Noranda assess potential impacts on wildlife, ground and surface waters, and on the forests of Oneida County.

"That all takes a lot of staff time," notes Howard Druckenmiller, Meyer's executive assistant. "It was a tremendous amount of work in a very sensitive environment."

The fieldwork even included Meyer's trudging about the backwoods. Before his appointment to the DNR's top post, Meyer was directly involved with a controversial determination that the wetland was an intermittent lakebed. He recalls being "buried up to over my hips" while walking the boggy site.

Unlike other land users, mining companies are permitted under state law to fill wetlands. This exemption was voided by the DNR's classification of Noranda's site as a lakebed, which invokes more stringent regulations. The ruling was hotly disputed by Noranda, which had already flexed enough political muscle to delay efforts to declare the Willow Flowage an Outstanding Resource Water. (This designation, suggested by DNR staff a year before Noranda's discovery, would not have allowed discharges of common mining pollutants into the flowage. The DNR, after additional costly reviews, this year moved again toward granting this status to the Willow.)

In late August, Noranda abandoned its mining project and renounced its lease on the forestland where the copper/zinc deposit sits. The firm's flight probably won't help the DNR recover the \$300,000 it spent working with the company. Calls to Noranda's Madison lawyer, Wall Arts, concerning the unpaid bill went unreturned, but Art's most recent correspondence with the DNR carries a defiant tone.

"Noranda has no legal responsibility for any of the costs allegedly associated with

this project," writes Arts in a Sept. 29 letter to Druckenmiller. Arts calls the agency "antagonistic" to Noranda's mining project from its inception and defines the lakebed designation as "questionable science [that] would have been the basis of protracted and costly litigation." Arts concludes that Noranda "does not owe DNR any additional amounts."

In response, Druckenmiller wrote to J.R. Schnarr in Noranda's Toronto office. Arts' letter, he maintained, "was factually and legally incorrect, and its confrontational

fighting them in court," the companies have proved untrustworthy.

DNR Secretary Meyer expresses his disappointment with Noranda. "It's a trust issue here," he says. "It raises a question of credibility as to how they would interact with us in the future." Still, he's not willing to draw sweeping judgments: "We don't judge an industry by one company."

Meyer expects a resolution to the matter within the next 30 to 60 days. He indicates the DNR may be willing to settle for less than the amount they have itemized in

billings to the company, particularly to avoid taking the matter to court. "Litigation takes time," Meyer explains, "and costs money to the state of Wisconsin."



MARY LANGENFELD

style was so off-setting as to be counterproductive." Druckenmiller also expresses his disappointment that Schnarr did not directly contact him about the bill as promised during a meeting in August.

It's not unusual for the DNR to allow mining companies to postpone payments to the agency for staff work associated with their projects. Exxon currently has a tab in excess of \$1 million for staff work concerning its proposed Crandon mine. The company has paid the state about \$850,000 toward development of its Environmental Impact Statement, but this is a separate billing that is not allowed to accumulate like other costs incurred while reviewing a permit application.

Rep. Black says the fact that mining companies are sometimes allowed to run up tabs proves that the state's mining rules are too lax: "When push comes to shove, you see the loopholes." And he thinks the Noranda episode should serve as something of a wake-up call.

"The DNR and Tommy Thompson are saying we should trust the mining companies," says Black. But in this case, as in the infamous oil spill at Valdez, Alaska, where "nine years after the fact, Exxon is still

for a period of 10 years following its close. The bill passed the state Senate by a 29-3 vote last March and appears headed for a vote in the Assembly in January.

Meanwhile, Rep. Tom Ourada (R-Antigo) has introduced a bill to prevent future fiascoes like the Noranda situation. Assembly Bill 488 would annualize payment of mining-related costs incurred by state agencies.

Jim Wise, an environmental activist in Tomahawk and outspoken opponent of Noranda's mining proposal, says essential DNR work on mercury deposition in northern lakes, pollution runoff and wildlife-management practices was delayed while limited agency staff responded to mining company proposals. "Mine permits," he argues, "are really a drain on local DNR districts."

Druckenmiller agrees the DNR was unable to move as fast as it would have liked to on other matters but says all of the work was eventually completed. Wise remains incensed over Noranda's apparent unwillingness to pay what it owes.

"This isn't the DNR's money," asserts Wise. "This is the citizens' tax money, and it's owed to the people of the state. Why doesn't the governor just call Noranda to pay their bills? Why doesn't former Gov. Tony Earl [who works for Noranda's Madison law firm] get Noranda to pay its bill?" ■