SB271a-pt02 4

October 30, 2001

M E M O

TO: Members of the Senate Environmental Resources Committee

Senator Robert Wirch
Senator Dave Hansen
Senator Robert Cowles
Senator Dale Schultz

FROM: **Senator Jim Baumgart, Chair**

Re: **SB 271**

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Senate Bill 271 - Relating to: environmental regulation of mining and notice to transferees of interests in mining sites.

By Senators Hansen, Erpenbach, Shibilski and Decker; cosponsored by Representatives McCormick, Krawczyk, Meyerhofer, La Fave, Sherman, Black, Bies, Underheim, Ryba, Miller and Berceau

Attached is a copy of a Substitute Amendment (LRBs0223/2) to Senate Bill 217 and a paper ballot for introduction and adoption of the Substitute Amendment and Passage of the bill as amended. Please return the ballot as soon as possible.

Mining Meeting 10/24

- How to deal w/ Hazardous waste
- Modeling

Haz. Waste: How to identify Haz. Waste

1. Master list → Mining waste is not on the list
2. characteristic test → But DNR will regulate under NR 182.
   → If its hazardous then treat like haz. waste.

→ NR 182.(2) ⇒ DNR ~~tests~~ for haz. waste but the question is how to handle it

- Concerns about a backlash to weaken the groundwater contamination

SB 271/AB 547

Close Environmental Loopholes:

No Special Treatment for Mining

No special treatment or loopholes for mining.

- Mining should not be allowed to pollute more than similar industries or activities. For instance, mining waste sites should be subject to the same groundwater standards as landfills or hazardous waste facilities. Mining should be required to meet environmental standards that are at least as strict as other activities.

- 90% of Wisconsin adults believe mining should be held to the same groundwater and hazardous waste standards as other industries, according to a statewide poll of 600 Wisconsin residents conducted in June 2001 by Chamberlain Research.

Mining deserves to be held to the highest standards.

- Mines are often located in environmentally sensitive areas. For instance, the proposed Crandon mine is in the middle of wetlands and is surrounded by lakes and streams that flow into one of the state's most treasured resources, the pristine Wolf River.

- Metallic mining accounts for more than half of the nation's toxic releases, according to an April 2001 EPA report.

- Mining waste is much different than landfill waste. Landfill waste will degrade biologically. Mining waste will change very little (chemically or physically) over geological time periods.

Impacts of SB 271/AB 547 on solid and hazardous waste laws.

The bipartisan companion bills would apply general environmental standards to mining whenever those general standards are more stringent than those for mining. The bill has two primary impacts on the current regulation of mining:

1. Repeals the statutory exemption from hazardous waste laws:

- Currently, mining waste is statutorily exempt from hazardous waste laws even if it has the characteristics of hazardous waste.

- The bills require that: (1) mining waste be tested to determine if it is hazardous waste, and (2) hazardous mining waste be treated as other hazardous wastes.

2. Prevents the DNR from issuing mining permits when modeling predicts pollution beyond enforcement standards:

- Currently, groundwater enforcement standards are set at 150 feet away from mine waste facilities, the same as for landfills.

- Mining permits are currently based on groundwater modeling that sets pollution standards at 1,200 feet, allowing dilution and more pollution. In other words, mining permits can currently receive permits even if groundwater models predict pollution to spread to distances between 150 and 1,200 feet.

- The mismatch between groundwater modeling and enforcement standards creates a likelihood that enforcement standards at 150 feet will be violated. Such violations would lead to greater pollution than that allowed for municipal landfills and put pressure on the DNR to grant variances to keep the mine operating.

- Requiring groundwater modeling at 150 feet may lead to the use of more effective groundwater protections at the proposed Crandon mine.

    - The landfill for tailings and other mine wastes at Crandon would hold waste in an area greater than 200 football fields behind 90 foot high earthen walls, in an area of wetlands, lakes and streams leading to the Wolf River.

    - Groundwater protection could be increased by the use of a double liner at Crandon, like the double liners used at least eleven ordinary Wisconsin landfills. The waste facility could also provide better protection of groundwater by treating the mining waste to make it non-reactive, possibly by oxygenizing the cyanide, reducing the sulfur and washing waste material.

- Groundwater modeling at 150 feet is realistic. Illinois requires groundwater modeling for municipal landfills at 150 feet, even for municipal landfills. The model used by the state is Modflow, the same model applied to the Crandon mine. Illinois has not had problems siting municipal landfills due to the modeling requirement.