

Testimony of Senator Chris Johnson in Opposition to LD 1772 “Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection”

February 24, 2014

Good morning Senator Boyle, Representative Welsh, and members of the Joint Standing Committee on the Environment and Natural Resources. I am Senator Chris Johnson, representing State Senate District 20, in the Mid-coast region. I am testifying in opposition to LD 1772 “Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection”

Tom Whittle - a constituent residing in Boothbay Harbor, and a career Civil Sanitary Engineer with 44 years of experience in the design and operation of wastewater treatment facilities for municipal and industrial clients wrote to me concerned about the rules being considered by your committee today. He offered this first-hand knowledge:

I am also an avid outdoorsman and active in Trout Unlimited (TU) and other organizations that work to protect Maine's environmental resources. Prior to moving to Maine from Pennsylvania, our TU Chapter was involved in the construction and operation of a stream acid limestone treatment system on a valuable trout stream in a remote area. This system, while relatively simple, requires weekly maintenance by volunteers and approximately 100 tons of limestone shoveled into the treatment chamber annually. Mines in the area were abandoned in 1880, yet it wasn't until the 1970's that the fishery was impacted. The treatment system was first installed in 1987 and expanded in 2000. It is expected to be needed in perpetuity to control acid in the stream.

He went on to say “My concern with this bill is quite simple—the rules are not protective and should be rejected. There is a very great potential that the rules as proposed will result in the need for the citizens of Maine to be faced with either loss of valuable resources or the burden of treatment over generations, long after the mines and any jobs resulting from them are gone. The potential contaminants from mining in Maine will not be remediated with simple acid treatment processes.” He is right. Arsenic is also very high in Maine’s ore deposits and would require more complex treatment.

While his knowledge of treatment facilities and direct experience with acid mine drainage contamination of waterways may be rare, the opinion that these rules are entirely inadequate are shared by the many constituents that have written to me about this resolve.

The DEP proposed draft rules to BEP that were too weak to protect Maine’s surface and groundwater, too weak to protect Maine from a perpetual treatment time-bomb and costs, and too weak to keep Maine from paying the price tag for mitigating the likely acid and arsenic ecological disaster.

I testified before the BEP for strengthening those rules and addressing those issues. And their response was to make the rules even worse. The rules and the DEP presume contamination, and accept that ground and surface water contamination will extend beyond the mining site. Cynically they would preclude appropriate intervenor status for citizen groups, a substantive change which was slipped in without opportunity for public comment. And the department has no plan for rule review by the U.S. EPA, which is unprecedented.

I am here to tell you that Maine is admired by people across this country for the pristine nature of our natural places. To tell you that the people not only visiting, but living here, working in jobs dependent upon the uncontaminated nature of our resources expect better than this. Maine people do not take kindly to ignoring their extensive testimony before the BEP on the need to strengthen the rules, while listening to out of state profit motivated interests asking for a weakening of the rules.

And I am here to make plain that expecting to slip environmentally disastrous rules into place without EPA review, and disenfranchising citizen groups as intervenors are both unacceptable and disreputable. Anything which would be destroyed by the truth being known, deserves to be destroyed.

None of this is how representative government is supposed to work, and these practices must not be condoned by acceptance of inadequate rules produced by a corrupt process. These rules deserve rejection. Period.

The natural resources we have in Maine, and the many lives and many jobs dependent upon the quality of those resources will always be more important than mining company profits and a small number of jobs for a few years. The character of this place and its pragmatic stewardship by Maine people are what we keep for each other and leave for future generations.

You have an opportunity to be a part of that stewardship and ensure that Maine's reputation and natural resource economy have a bright future. Or you can bless a tainted process and a weak set of rules by which you will be remembered. What sort of future do you see for Maine, and what shall be your legacy?

Sulfide ore metallic mining is something we need to do right, or not do at all. Because Maine's slogan is not "I remember it before the acid and arsenic spoiled it." Our slogan is "The way life should be".

Please reject these rules.