

TESTIMONY for Maine's Legislative Committee on the Environment & Natural Resources

From Ralph Chapman, Bucksport

Date April 13, 2023

Re LD 1564 An Act to Eliminate Metallic Mineral Mining Activities Without a Permit

Senator Brenner, Representative Gramlich, and other members of the Joint Standing Committee on the Environment and Natural Resources, my name is Ralph Chapman from the Hancock County town of Bucksport. I am a retired research scientist (Applied Physics), educator, and Maine legislator (eight years during the 125th, 126th, 127th, and 128th legislatures). At that time, during the most recent legislative review of Maine's mining laws until now, I represented the only House District that has had commercial metal mining in the past century. I am familiar with many issues that were considered during the six year legislative processes that resulted in the current Metallic Mineral Mining Act.

The bill before you, LD 1564 An Act to Eliminate Metallic Mineral Mining Activities Without a Permit, is intended to correct two serious problems involving unregulated mining activities, and untimely baseline monitoring. Because of a drafting error, for which I take full responsibility, I am requesting the addition of two words on line 22 of the draft text before you: insert, between the words "...sampling," and "advanced...", the words "exploratory activity", to read "...includes the bulk sampling, exploratory activity, advanced exploration, extraction..." Adding these two words would remove potential ambiguity which otherwise might come only from context. It is my understanding that the primary bill sponsor, Rep. Milliken, has no objection to this alteration.

The enabling legislation for the current mining regulations directed the Department of Environmental Protection to develop major substantive rules (now about a hundred pages). In their wisdom, they chose to separate mining into four categories or phases, each with its own set of requirements and constraints: exploratory, advanced exploration tier one, advanced exploration tier two, and mining.

Unfortunately, the result leaves exploration without regulation or oversight, and requires baseline environmental monitoring only in the middle (advanced exploration tier two) section rather than at the beginning. (Though hard to imagine in practice, this actually creates an incentive for an applicant to intentionally alter the mine site prior to the baseline monitoring to relieve them of adhering to what might have been a more stringent background condition.)

Baseline monitoring should happen at the beginning of mining activities, and all mining activities should be regulated with governmental oversight for the reasons given below. Passage of LD 1564 would accommodate this viewpoint.

The mining industry business model is to generate a revenue stream from sales of the valuable commodities extracted from below the earth's surface. Expenses related to protecting human health, water quality, or the environment do not contribute to the revenue stream, and therefore, come entirely from profits. The industry cannot regulate itself because it has a fiduciary responsibility to generate profits to provide a return to its investors, and that represents an irreconcilable conflict of interest with society's interest in protecting health and the environment. Therefore, it is necessary for the government to regulate the industry. That there is such a tremendous financial incentive for the mining industry to do the absolute least required in protecting health and the environment is why the industry suffers a world-wide reputation as a major polluter.

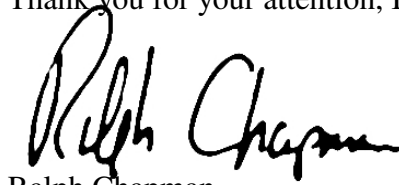
There may be opposing views related to onerous burdens upon the industry created by the permit application processes, which you will have to weigh in relation to the needs for a clean environment, not only for Maine's largest industry, tourism & hospitality, but also Maine's important agricultural and fishing industries that not only rely on non-contaminated water, but the public perception of non-contaminated water.

Finally, correction of the problems noted above by passage of LD 1564, does not address many dozens of other technical and policy problems in current mining law. Nor would correction of all of those other problems create an effective regulatory environment for the mining industry, because Maine's regulatory framework is based on punishing non-compliance, an ineffective method for any industry that can do more harm than it can afford.

An advantage to assembling a regulatory framework based on preventing harm, rather than punishing harm, is that the legislature would not be put repeatedly in the position of trying to catch-up (unsuccessfully) to the continual changes in circumstances, complex scientific understanding, or technological developments inherent with mining.

I offer my help, should the legislature choose to move in the direction of correcting the regulatory framework for the mining industry. I note the uniqueness of Maine in having, already in hand, two of what I believe are the three necessary ingredients to do so.

Thank you for your attention, I am happy to answer any questions (now or at any time).

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

Ralph Chapman