

EXHIBIT 3
DATE 1.17.05
HB 143

TESTIMONY FOR HOUSE BILL 143

Mr. Chairman, members of the committee, my name is Warren McCullough. I am the Chief of the Department of Environmental Quality's Environmental Management Bureau, which administers the Metal Mine Reclamation Act. The Department requested and supports this legislation.

For six years following the Chapter 7 bankruptcy of Pegasus Gold in early 1999, the Department has learned from its experience and has extensively revised mine bonding procedures and calculations to provide greater protection to Montana's environment and smaller financial liability to Montana taxpayers. Most mine operators have recognized the need for change and have cooperated with the Department in this process. There are still individual properties, however, where the Department feels additional financial assurance is necessary.

The 2003 Legislature added language at MMRA 82-4-337 (4) specifying that bonds could not be increased under an operating permit until after completion of formal environmental analysis, such as an Environmental Assessment or EIS. The language added also prevents DEQ from pursuing bond increases at permit areas even where it is apparent to the agency that additional funding for long-term water treatment or management is needed to protect the environment from harm and taxpayers from liability. At such properties, it is difficult to calculate a specific number without completed environmental analysis, but no longer possible to require an additional bond increment until the completion of the contested analysis. Other language in the current 82-4-337 (3) still allows DEQ to require modification of a plan when problems are noted, under a so-called "337 review", but there are no timelines given, and the process can take years, particularly when an uncooperative permittee is involved.

HB 143 is intended to address this problem. It specifies that the Department can still require bond when a previously adopted plan is impossible or impracticable to implement, or when significant environmental problems are revealed by inspection, but

- Adds a specific process with timelines to afford the permittee ample opportunity to work with the Department to establish an interim plan to deal with the problem.
- Allows for participation by the permittee in the process of calculating an interim bond to cover the problem while analysis is conducted.

- Allows for adjustment of the bond after a modified reclamation plan and final bond calculation are approved following the environmental analysis, and
- Protects the environment from harm and taxpayers from liability during the course of the environmental analysis.

WDM 1/17/05