

TESTIMONY FOR HOUSE BILL 147

Mr. Chairman, members of the committee, my name is Warren McCullough and I represent the Department of Environmental Quality. My bureau administers the Metal Mine Reclamation Act. The Department requested and supports this legislation.

In recent years, hundreds of small-scale operations to exploit rock resources have sprung up in the state, sparked particularly by the demand for rock products for use in home construction. Although many of these operations involve low capital outlays, the cumulative economic impact in the state is already in the millions annually, and they provide jobs for many individuals in areas hit hard by the decline in the traditional logging and mining industries.

It is not possible to regulate most of these sites with a traditional Small Miner Exclusion Statement (SMES), because most operators must exploit multiple sites to fill the requirements of specific short-term contracts, and because the disturbances at some sites may expand to cover more than the SMES limit of no more than five acres disturbed and unreclaimed. It is also impractical for both operators and DEQ to require time-consuming preparation of a full operating permit at these sites, given the relatively small and benign impacts of these operations in contrast to metal-producing properties.

In 2003-4, the Environmental Management Bureau (EMB) published a General Quarry Environmental Assessment and supplement, intended to allow individuals or companies to apply for a General Quarry Permit to cover multiple sites which meet the criteria listed in the proposed new bill. An example of such an applicant is Plum Creek Timber, which proposes dozens of separate rock products sites spread out over its checkerboard land position in several western Montana counties. DEQ's Legal Department feels that a General Quarry Permit covering this situation would run contrary to the current language in 82-4-335. 1: "A separate operating permit is required for each complex." "Complex" is not defined in the Metal Mine Reclamation Act, and Legal believes that EMB's interpretation of it for the General Quarry Permit is too broad.

Under the criteria listed above, only properties which do not use chemical processing, and have no potential to produce acid rock drainage or impact water, T&E species, or cultural resources would be eligible. Properties not meeting the criteria would have to apply either for a SMES or an operating permit.

The proposed language would eliminate the legal vulnerability given above, and would allow EMB more efficient oversight over numerous small operations. Keeping the paperwork simple would encourage more small-scale operators to self-report and be regulated, and would eliminate the need for literally dozens of operating permits for small, low-impact operations. The bill would eliminate the need for additional technical or administrative staff FTEs to handle an increased permitting work load, and covering such operations under General Quarry permits would allow EMB to require reclamation bonds for these sites, which is not possible under a SMES.

Although environmental review and analysis would not be quite as thorough as with individual operating permit applications, periodic inspections should catch any properties which do not meet the criteria in the proposed legislation, and require them to either reclaim or obtain an operating permit. There would be only minor loss of revenue from multiple operating permit applications.