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SENATE NATURAL RESOURCES
COMMITTEE NO. 7
DATE 3/16/05
BILL NO. HB 606

March 16, 2005

Senator Glenn A. Roush  
Chair  
Natural Resources Committee  
Montana State Senate  
PO Box 556  
Lodge Grass, MT 59050

Re: House Bill No. 606  
Mining Rules - Impoundments  
Small Miners Exemption

Dear Mr. Roush:

In regards to House Bill 606, I would like to provide the following comments on the record:

The proposed legislation provides for additional regulatory constraints, submittals, and review when an impoundment is used in mining activities for small miners. However, to the best of my knowledge the following statements apply:

1. The Montana Department of Environmental Quality (DEQ) has not shown evidence of adverse impact by small miners.

No cost-benefit has been performed.  
No economic impact analysis has been prepared.

2. The DEQ has not demonstrated evidence of adverse impact by impoundments used to store waste from ore processing by small miners.

No cost benefit has been performed.  
No economic impact analysis has been prepared.

*Furthermore, if the environment was really their concern, one could easily insert one sentence in the law under the SME says, "All small miners who impound mill waste/tailings must submit a design and reclamation plan under the small miners exemption to the Department for approval."*

3. The DEQ has already provided appropriate guidance on the operation of these kinds of sites and others in the form of 17.24.182 (Interpretive Rule) Operational Recommendations for Small Miners.
4. The DEQ has not shown evidence of substantial risk associated with acid leaching/drainage. If they could, then an exclusion for non-acid drainage potential would be more appropriate.
5. The DEQ has not shown evidence of substantial risk associated in regard to nitrate formation associated with impoundments.

If they could, then a cost-benefit analysis would be in order.

In addition, the weighting of the impact of <5 acre developments (small miners definition) versus permissible large agricultural and fertilizer applications would also be in order.

6. The DEQ has not demonstrated that requiring additional operating permits (beyond current registration process) would prevent impairment of the environment, advance the understanding of potential impacts, or otherwise serve the community, businesses, and citizens of Montana.
7. The Bill would require setting aside capital for bonding that would restrict business development, restrict revenues that would otherwise be taxable (from labor, income, and equipment/supplies purchases) by the state.
8. The Bill would require setting aside equivalent capital (in the form of labor and eco- and hydro-studies) while applying for an operating permit that would restrict business development, and restrict revenues that would otherwise be taxable (from labor, income, and equipment/supplies purchases).
9. In the future, the Bill would require a small miner working a placer deposit to obtain a permit prior to performing any disturbance where ore processing is performed; thereby restricting or curtailing development.
10. It appears, on the surface, that the DEQ desires to collect additional fees (\$500 application plus \$100/year) and to restrict small business development with no justification other than to create income and work for itself and the business community.

If multiple sites (2-3 small locations spaced out) then multiple fees (\$1000, \$1500, etc.) would apply, becoming a hindrance to small miners.

Senator Glenn A. Roush  
Letter on HB 606  
Page 3

Hidden in the potentially newly applied operating permit fees requirements [82-4-335(3)], DEQ could charge (without recourse) additional fees for review that total over \$5,000, and must be paid before issuance. Those fees for these "services" that are under \$5,000 appear to be mandatory, unmonitored, and would not require justification or determination of allocation by DEQ (in effect, unrepresentative taxation and unaudited use of taxpayers money).

11. It appears that this Bill is a direct reversal of the (recent) provisions intentionally provided to minimize the burden upon small miners.
12. All in all, this Bill appears onerous, arbitrary and capricious in nature, and more self-serving for DEQ and not for the citizens of Montana.

I do not support it in the fashion constructed.

If you have any questions, please contact me.

Sincerely,



Andrew Anthony 'Tony' Havics, CHMM, CIH, PE  
Managing Member

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# MONTANA STATE SENATE

+++++ WITNESS STATEMENT +++++

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REPRESENTING Lodestar Mining & Exploration, LLC

APPEARING ON WHICH PROPOSAL ? HB 606

DO YOU: SUPPORT \_\_\_\_\_ OPPOSE  AMEND \_\_\_\_\_

COMMENTS:

HB 606 has no cost-benefit or environmental basis for its passing. This bill is focused on Lodestar's operation in Big Timber, who will be the primary impacted by it passing. This HB will be impact all small miners and will force most of them out-of-business if passed. The SMTF will be force under DEQ's Operational regulations for the application of the Operational permit stated within the bill.  
For additional comments see attached letter addressed to Chairman Roush.

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY