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WISCONSIN STATE SENATOR

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Sen. Tom Tiffany, Chair, Senate Committee on Workforce Development, Forestry,
Mining, and Revenue
Rep. Mary Williams, Chair, Assembly Committee on Jobs, Economy and Mining

Dear Sen. Tiffany, Rep. Williams and Committee Members,

The most important thing that the Wisconsin Legislature should be focusing on this session is creating solid, family-supporting jobs. The legislation before you today is supposed to be a way to clarify mining laws and allow for the creation of an iron mine in the Penoque Hills of northern Wisconsin. This legislation will do no such thing. It is a means to environmental destruction, elimination of citizen input and endless legal challenges. It is my hope that the Senate and Assembly committees considering Senate Bill 1/Assembly Bill 1 will join me in opposing it.

I am deeply concerned with the exemptions to environmental laws contained within SB1/AB1. One example starts on page 125, line 19, outlining specific exemptions that the bill authorizes the Department of Natural Resources to issue. It allows for the DNR to grant an exemption from any requirement relating to a mining permit application, mining permit or other approval as long as it does not result in adverse environmental impacts. Or, it actually can result in adverse environmental impacts if there is a mitigation plan. This provision gives the Department almost unchecked authority to grant exemptions from current environmental standards.

The changes made to the contested case process take away a valuable part of the process which allows citizens concerned about the potential impact of a mine from engaging in the process. Not allowing a contested case until after the permit has been issued puts the Department in a position of purely defending a permit decision. A contested case during the process allows for more consideration of scientific evidence and discussion within the permitting process. Identifying public and scientific concerns as a part of the permitting process helps the DNR to issue the appropriate permit up front.

Another troubling aspect of this legislation is the likely constitutional challenge it opens up by allowing for the filling of lake beds. The Public Trust Doctrine in the constitution says, "the state shall have concurrent jurisdiction on all rivers and lakes...[they will] be common highways and forever free". This states clearly that the waters of the state belong to the people of state. The Wisconsin Supreme Court unanimously confirmed the

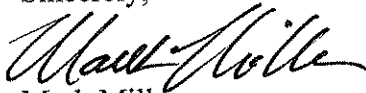
DNR's responsibility to protect the public interest. Current law, backed up by the constitution, prohibits the filling of lake beds in connection with mining. This bill expressly permits it, and other "significant impacts to navigable waters" if there are mitigation measures (p. 156, line 12). A mine in this area of the Penokee Hills will likely require the removal and relocation of vast amounts of potentially toxic overburden. Filling waterways with that waste is likely the only affordable option for a mining company. The DNR cannot grant an exemption contrary to its constitutional obligation without being subject to a lawsuit. Additionally, enhancement measures to waters in other parts of the state cannot come close to mitigating the impact of lost and polluted waters for the people who live near the mine site.

I am troubled by the apparent lack of discussion with the Bad River Band of the Lake Superior Tribe of Chippewa Indians in development of this legislation. A proposed mine in the Penokee Hills would have a tremendous impact on tribal lands and the health of the citizens who live there.

Let's not forget about the tremendous natural resources that exist in the Penokee Range. They are home to seventy-one miles of rivers and streams, several of which are designated Exceptional or Outstanding Resource Waters. The Penokee Range is home to the 16,000 acre Kakagon-Bad River Sloughs, a world renowned resource, home to many threatened and endangered resources like bald eagles, piping plovers and wood turtles.

I hope that the committee takes a long, hard look at this legislation and realizes that it does not serve the people of Wisconsin.

Sincerely,



Mark Miller
State Senator
16th Senate District