

Mining Information Sheet

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Local Decisions in Metallic Mining Projects

Introduction

The subjects of metallic mineral mining and its perceived impacts have stimulated many discussions by environmentalists and concerned residents of Wisconsin. By the time a mining proposal receives widespread public attention, it may be well into the several-year-long environmental and regulatory reviews by the Department of Natural Resources. However, local municipalities also play a key role in the process - often very early - through their zoning and land use authorities. This information sheet identifies some of the most significant decisions of local municipalities in the mining review process.

Background

Wisconsin's mining law mandates that before state permits for mining can be granted, the local municipality (town, city, village, county or tribal government) where the proposed mine would be located must have granted the necessary permits or approvals under its applicable zoning or land use ordinance. The local municipality, therefore, through its zoning or land use controls, has a regulatory role in permitting a proposed mine. Local municipalities also have additional authority which relates to mining projects.

Leases on County Lands - Northern Wisconsin counties own and manage several million acres of county forest land in the region where metallic mineral resources are most likely to occur. On these lands, counties have the authority to enter into exploration and mining leases with mining companies. Exploration and mining leases typically can address local concerns such as the type of minerals ultimately to be mined, compensation for timber and roadway damage, additional groundwater and surface water protection and other issues, and designate schedules for payment of fees and royalties. The decision to enter into such an agreement rests with the County Board and is largely a local decision, although the Department of Natural Resources reviews draft agreements to assure protection of sensitive natural resources and must ultimately approve the agreements.

Withdrawal of County Forest Lands - A county may decide to withdraw lands from its county forest for mining or other purposes. In regard to mining, the law states that if mineral extraction cannot be accomplished without permanently affecting the surface of the land, mineral extraction may not begin until the land is withdrawn as county forest land. A resolution to withdraw county forest land requires a two-thirds majority vote by the county board.

The county initiates the withdrawal process by applying to the Department of Natural Resources, which evaluates the proposal. The Department weighs the benefits to the entire state as well as to the county of the proposed use in comparison to the existing use. If the Department denies the proposed withdrawal, there is a statutory process for the county board to appeal to a special committee to review the decision. Here again, the decision to withdraw county forest land is largely a local decision.

Local Mining Impact Committees - The mining law (s. 293.33, Wis. Stats.) recognizes that local communities may be impacted by nearby mining projects. Therefore, it provides for a municipality to establish a local mining impact committee for the purposes of:

- facilitating communications between operators and itself;
- analyzing the implications of mining;
- reviewing reclamation plans;
- developing solutions to mining-induced growth problems;
- recommending priorities for local action;
- making recommendations to the state for mining impact fund distribution;
- negotiating a local agreement.

Local committees may hire staff, enter into contracts with private firms or contract with a regional planning commission or other agency for staff services. Typically a local mining impact committee comments on the mining company's Notice of Intent and the Department of Natural Resources' draft and final environmental impact statements. Depending on the desired level of local involvement, a local impact committee may organize public meetings to discuss the mining proposal or likely natural resource and socioeconomic impacts.

In 1992, legislation was signed into law which requires a mining company to deposit in the Mining Investment and Local Impact Fund up to \$150,000, for use by local impact committees that are negotiating local agreements with that mining company. The payment is required early in the mining review process when the company submits its Notice of Intent to the Department.

Local Agreement

In 1988 the mining law was changed by the legislature to allow local municipalities with zoning or land use authority the option of using another mechanism to give local approval to a proposed mine. The revision gave the municipality the option to enter into a "local agreement" or contract with a mine operator. The local agreement could specify the conditions, terms, restrictions, safeguards and other requirements for the proposed mine which the municipality believed necessary for protecting the public health, safety or welfare of its residents. Other provisions deemed reasonable and necessary also could be included in a local agreement. The provisions in a local agreement could substitute for existing municipal zoning or land use controls, although this is not a requirement of a local agreement. The law still provides for local municipality approval of a mining proposal, either through its zoning or land use authority or by means of a local agreement, or both, whichever the local municipality chooses.

Under the local agreement revision of the law, a municipality may appoint a local impact committee to negotiate with a mine operator and develop the terms and conditions of the local agreement.

However, final approval of the agreement must be given in a public meeting of the governing body of the county, town, city, village or tribe that is party to the agreement. In addition, before municipal approval of a local agreement can be given, there must be a public hearing on the agreement. Rather than reducing or eliminating local authority, the local agreement law offers greater control and flexibility to the local municipalities by shifting authority to it from the local zoning committee.

Impetus for this revision to the mining law originated in early negotiations between the Flambeau Mining Company and Rusk County, the City of Ladysmith and Town of Grant after the company indicated it wanted to mine the orebody. After passage of the amendment to the mining law (the amendment became section 293.41, Wisconsin Statutes), those three municipalities and the Flambeau Mining Company signed a local agreement pertaining to the mine that was subsequently developed at Ladysmith. As of March, 1997, both the Town of Nashville and Forest County have signed local agreements with the Nicolet Minerals Company, relating to the proposed Crandon Mine.

Effects of a Local Agreement

One of the advantages of a local agreement is that it encourages a dialogue between the mining operator and the local authorities and residents. As a result, the concerns of local residents, many of which are beyond the scope of the Department's authority, can be identified early, discussed, and in many cases, mitigated by the terms of a local agreement. For example, in the local agreement developed for the Flambeau Mine in Ladysmith, there were: a provision for 75% local hiring; a mechanism for compensating for the loss of property value to land near the mine; restrictions on trucking and hours of operation; and conditions for environmental protection.

Another advantage of the local agreement process is its potential to reduce the uncertainty of mining economics for local municipalities. For example, referring to the Flambeau Mine local agreement again, the company guaranteed the maximum monetary payments to the city, town and county during the mining operation. While the state might make payments to the municipalities through the net proceeds tax on the mine operator, there is some uncertainty about the timing and amounts the municipalities would receive. The price of metals is a major determining factor in the amount of net proceeds tax payments, and metals prices cannot easily be predicted. By guaranteeing the maximum payments as a condition of the agreement, the company has helped reduce the economic uncertainty of mining to municipalities and allowed them to plan accordingly.

A local agreement is a contract between one or more municipalities and the mining company, and any local concerns could be negotiated for inclusion. For example, limitations on noise or blasting, bonding requirements, dust emissions, water well quality testing, roadway maintenance and mining impact monitoring are additional types of issues that could be addressed in a local agreement. A local negotiating team has a wide variety of local issues from which to choose in developing an agreement with the company.

Summary

Local municipalities in northern Wisconsin have important decisions in regard to potential mining projects. Extensive land ownership enables many municipalities to decide whether or not to lease lands for metallic mineral exploration and mining. After an orebody is discovered, municipalities have authority to establish local impact committees to participate in the project review and negotiate local agreements with mining companies.

The 1988 change in the mining law does not require municipalities to follow a local agreement process, but provides the option for them to take advantage of it. If municipalities choose to use the local agreement process, they can use it to substitute for zoning or land use approval if desired by the community leaders. The local agreement process can be beneficial by helping to establish a dialogue between a mining company and the local residents, by providing a mechanism to mitigate negative impacts of mining, and can reduce the economic uncertainty of mining to local municipalities. This change in the mining law maintains approval or denial of a mining project at the local level and gives local municipalities greater flexibility to address mining issues.

For More Information

If you would like additional information or want to discuss any mining-related issues, please contact:

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This mining information sheet is one in a series prepared by the Department of Natural Resources to explain how metallic mining in Wisconsin is regulated and to explore other aspects of mining. Copies of the following mining information sheets are available from Department offices in Madison and Rhineland, and the Internet:

- *The Permitting Process for a Metallic Mineral Mine*
- *How the Department of Natural Resources Regulates Metallic Mining*
- *Protecting Groundwater at Metallic Mining Sites*
- *Reclamation and Long-Term Care Requirements for Metallic Mining Sites in Wisconsin*
- *Local Decisions in Metallic Mining Projects*
- *Addressing Public Concerns With Wisconsin's Laws Governing Metallic Mining*
- *Wisconsin's Net Proceeds Tax on Metallic Mining and Distribution of Funds to Municipalities*
- *Cumulative Impacts of Metallic Mining Development in Northern Wisconsin*
- *Potential Metallic Mining Development in Northern Wisconsin*

The Mining Regulations (Administrative Code) can be viewed at the Department's Mining Web site:
<http://www.dnr.state.wi.us/org/aw/wm/mining/metallic/index.htm>.