



DATE: March 6, 2013

TO: Wisconsin State Assembly

FROM: Kimberlee Wright, Executive Director, kwright@midwestadvocates.org, (608)251-5047

RE: Considerations for protecting our water rights, abiding by the rule of federal law and strengthening our Wisconsin Department of Natural Resources

Wisconsin State Assembly:

As an organization that works every day to help citizens use the power of the law to protect our heritage of healthy water, air, land and government, Midwest Environmental Advocates strongly urges the Wisconsin State Assembly to reject AB 1, a bill that would pose a grave threat to Wisconsin's natural resources and its people's shared right to water.

Thursday's vote is the last step in a broken legislative process throughout which the voices of citizens and the weight of scientific evidence have been ignored. We were there at the single hearing in Madison where a majority of citizens who testified traveled a great distance to have two minutes to share their wisdom with legislators on how to promote a sustainable local economy instead of boom and bust. We were there to hear the testimony of leaders of the Bad River Band of Lake Superior Chippewa who were never invited to consult government-to-government with our state leaders, who instead allowed industry to write this done-deal legislation in their own interests. And we were there to hear geologists and a representative of the Army Corps of Engineers give their two minutes of testimony, even though they were never invited as guest speakers to offer their scientific expertise.

Now the Assembly faces a final vote on a bill that exempts a mining company from critical environmental protections. Assembly Bill 1 would prohibit the WDNR from stepping in to stop activities they found to be dangerous to public health and the environment. Current law would allow the WDNR to take immediate action to stop activities related to the largest proposed open-pit iron mine in the nation. Further, the size and scope of a proposed mine in the Penokee Range demands an autonomous and science-based review of the impact a mine would have on the landscape and on the water. Unfortunately AB 1 puts an unreasonable limit to what this science costs. From the beginning, legislators have steered a broken process in a rush toward a finish line where the people lose.

But Assembly Bill 1 is just another step in weakening the state's important regulatory agency that works every day to enforce the laws that protect our environment and public health. Representative Erik Severson authored [AB 23 in 2011](#), (and subsequently [Act 19](#) was passed and was signed into law by Governor Walker) and now the WDNR is prohibited to require local municipalities to continuously disinfect their public drinking water supplies. The WDNR's permit enforcement capability was eroded after Governor Walker signed [Act 118](#) which weakens protections for wetlands. [Act 21](#) gives the Governor too much power to override science-based standards developed by qualified specialists, such as WDNR staff, who have the professional expertise to implement complex standards on which public health depends. And since former Governor Doyle vetoed an attempt to make the WDNR Secretary an independent office, the leadership of the agency is too often subject to political

whims rather than a long-term commitment to our state's environmental health. We need a stronger WDNR with more staff and more resources. But AB 1 will only take us another step backwards.

We recommend that legislators who issue press releases on their commitment to our environment or make speeches about how AB 1 protects our natural resources should instead take action to correct the fact that our WDNR water pollution permitting program (WPDES) is [on the failing end of an assessment by the U. S. Environmental Protection Agency with regard to their consistent noncompliance with the federal Clean Water Act](#). The WDNR now has between 30-40% administrative backlogs in permit renewals for facilities that discharge waste water. The gap between federal requirements and many of the permits issued by the WDNR don't protect public health and expose the regulated community to unnecessary delays when deficient permits are open to legal challenges. The law is clear, the EPA has been clear in its expectations, yet the WDNR continues to issue permits that don't meet Clean Water Act standards.

Midwest Environmental Advocates has assisted citizens all over the state who have had to turn to the courts to protect the water they drink and the air they breathe. While citizens shouldn't have to bear the cost and the burden of legal actions, our Wisconsin Department of Natural Resources does not have the funding, staffing or autonomy to issue and enforce routine permits, let alone properly review and approve the largest open pit mine in the nation.

Without an independent, autonomous WDNR that has the resources it needs to enforce the Clean Water Act, our shared right to water is in jeopardy. When people turn on their faucet, they want their water to be safe to drink. It doesn't matter if it comes from a well or from a municipal supply. It doesn't matter who they voted for in the last election: water isn't a red or blue partisan issue. All life is dependent on access to clean water and needs constant vigilance by people who are trained and qualified to enforce science-based standards designed to protect public health. In addition to clean and abundant drinking water, as Wisconsin citizens, we have a constitutional right to the waters of the state.

The law of the land clearly establishes WDNR as the people's trustee of our natural resources. Assembly Bill 1 violates that trust relationship by requiring WDNR to approve the filling of lakes and streams with mining waste, elevating the economic interests of a mining company over the public trust. The people of Wisconsin have opposed this bill by a wide margin. It is out of step with our Wisconsin values for our elected representatives to use unbridled power to strip us of our heritage.

The legislature should return to our Wisconsin tradition of non-partisan protection of our state's natural resources. Rather than further diminish the capacity of a critical public agency, they should invest in a strong WDNR with the resources and autonomy to protect the health and economic opportunities of future generations. Assembly Bill 1 elevates corporate interests over public health and the environment and should be rejected.

Kimberlee Wright,
Executive Director
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