

From: James S Tovey

Meeting Review: Energy, Environment & Economic Development Committee Hearing SB-166-FN on February-19-2009 , Topic: Proposed Amendment to Chapter 12-E mining and reclamation.

This is my assessment of the hearing I attended and participated in.

Meeting in general:

Non-committee, participating attendants consisted of the Department of Environmental Safety (DES) & Department of Resources & Economic Development (DRED) personnel , the State Geologist, Lobbyists for the NH municipalities and the sand, gravel & aggregate industry, 2 private mineral rights owners. The hearing was cordial and informative.

Hearing points of interest,

1. During the 29 years of 12-E only 2 permits have been granted and none denied.
2. An overview by the DES representatives of the reasons for their proposed amendments and their desire for added 12-E regulatory permit involvement. Their goal was to bring the 12-E to the 21st century & to implement the present permit regulation & rules into 12-E.

Dissenting Considerations:

1. The addition of added state departments and local boards will undermine the commissioner's authority and effectiveness. You also lose some level of accountability.
2. The standardizing of the rules is a good idea and should be done. These rules and stipulations should be added to the application as clearly defined questions and requests. For example use DES permits that are required or reviewed.
3. 12-E mine area, exemption clause change of 5 acres to 100,000 sq ft. The request is based on the DES implementing a present DES rule. A lot of their present rules and regulation are designed for projects of less than 3 years. Mine operations are long term (over 10 years). The main restriction per the present rule is the 2000 cubic yards of excavated material. The area restriction will negatively affect the safety & efficient mine infrastructure.

NH municipalities lobbyist.

1. Implied that they want full veto rights to any mining in their community.

Dissenting Consideration:

1. The state has an established mandate to protect property rights from unwarranted restrictive zoning laws, regulations and rules.

The Sand & Gravel & dimensional crushed stone lobbyist.

1. Apologized to the hearing panel about his clients and members for their rough correspondence to the State Senators about the 12-E amendment. He explained that his organization had thought this regulation would cover them also.

Dissenting Consideration:

1. Are the two Hard rock mining regulation that dissimilar?
2. Standardize the hard rock mining regulations into one regulation. For the different type and scale of the hard rock mining operations sub-chapter them in the regulation. The mine types to be sub chaptered. Can be base on the mines total excavation and amount of material to be removal from the operations property.

(Tovey & Whitmore) Mineral Rights, Property owners.

Their main concerns are the negative value and use limitations the amended regulation will have on the deeded mineral property rights.

1. The change of the 5 acres to a 2 acres area exemption on present mining operations.
2. The added complexity caused by proposed added rules.
3. The loss of the one state department. with sole authority to administer & regulate 12-E. The proposed addition of DES and local boards further complicates & confuses the 12-E permit process.

Dissenting Consideration:

1. All deeded mineral rights that have been documented by the geological survey professional paper #255 & Beryl Resources of NH should be reviewed as to their 12-E status. (These documents give geological description, operation report, general & structural mine maps.)
2. Impact to date and amended 12-E future impact to the NH mining industry. The present 12-E impact to the mining industry is a difficult & expensive permit process. With the proposed changes, 12-E will become a greater barrier to any future mining expansion or new mining ventures.
3. The Senate SB 166 hearing was a good first step in exposing the parties to some of New Hampshire's small scale mining operations. This effort should be broadened to a round table type format with the New Hampshire geologist and vested parties.

In conclusion:

The overall workability of the 12-E regulation is not good. Having had only 2 granted permits in it's 29 year history indicates the regulation is restrictive. Making the regulation more informative with an educational tone would be a good goal. This can be done by enhancing and standardizing the permit application. A short example: the designed application can obtain personal, general company information and mine project descriptions. The application should specify what permits are required.

There is a general lack of information about New Hampshire mining. A case in point: our neighbor state of Maine promotes their present and past mining heritage. The Maine tourmaline tag line is used for tourist, retail and general state promotions. The Maine State Geological survey is very active in helping the gem & mineral mining and hobby collecting effort. Maine State Geological survey helps sponsor the Maine Mineral Symposium held every year in May. The State of Maine in general has embraced their mining heritage and used it as a state asset. New Hampshire should follow Maine's lead.

My suggestion is for the regulation sponsors and committee Senators visit the Gilsum Rock swap held in Gilsum NH, June 27 & 28-2009. This year's event will be its 45 year. The event is sponsored by the Gilsum recreation & fire departments. It celebrates the present and past mineral mining activities of the Keene district pegmatite's and other mineral localities.

