MAINE METALLIC MINERAL MINING ACT

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Maine Metallic Mineral Mining Act (Mining Act)

- Effective June 1, 2014 metallic mineral mining will be regulated under this Act, no longer the Site Law or Land Use Regulation Law.

- The Act improves existing law, which requires multiple permits, under several separate statutes from at least two agencies with standards that are complex, confusing and difficult, if not impossible, to meet.

- *De facto* ban.

- DEP must adopt new mining rules consistent with the Mining Act that will replace the 1991 mining rules.

- The new rules are “major substantive”; thus subject to legislative review.
Mining Act

- The Mining Act creates a framework for the permitting and regulation of all metallic mineral mining by one agency, the DEP.

- The Mining Act modernizes, consolidates and streamlines permitting for metallic mining, while protecting the environment.
Mining Act – Changes in Existing Law

- The following permits for metal mining have been eliminated by the new Act:
  - Site Law
  - LUPC Development Permit
  - Solid Waste Management Act Permit
  - Storm Water Permit
- Other potentially applicable DEP permits, such as NRPA, Air or Wastewater, must be processed by DEP in a consolidated fashion.
- Discharges of pollutants to groundwater may occur within a mining area but may not result in contamination of groundwater beyond a mining area.
Mining Act – Changes in Existing Law

• The term “mining area” is defined to include groundwater and surface water treatment systems, so the compliance boundary is beyond these systems.

• DEP must establish standards for monitoring groundwater “as close as practicable” to any mining area.

• When determining a mine’s impact on natural resources protected by NRPA, DEP must apply NRPA standards.

• Application requirements are clearer.

• A mining permit has no term limit (no renewals).
Mining Act – Changes in Existing Law

- Mining standards adopted by DEP through rulemaking must be performance-based to the extent feasible.

- Stringent financial assurance required, but more flexibility in types.
Mining Act – Criteria for Approval

A. Financial capacity and technical ability to develop project in manner consistent with State environmental standards.

B. Adequate provision for fitting mining operation harmoniously into the existing natural environment and development will not unreasonably adversely affect existing uses, scenic character, air quality, water quality, or other natural resources.

C. Will be located on soil types suitable to the nature of the mining operation.

D. Reasonable assurance that discharge of pollutants from mining operation will not violate applicable water quality standards. Discharges to groundwater may occur within a mining area, but may not result in contamination beyond any mining area.
Mining Act – Criteria for Approval

E. Will not cause a direct or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that results in a condition that is in nonattainment of or noncompliance with surface water quality standards.

F. Withdrawals of groundwater and surface water must comply with water withdrawal reporting law.

G. Adequate provision of utilities, including water supplies, wastewater facilities and solid waste disposal, and no unreasonable adverse effect on existing or proposed utilities in town or area served by such services.
Mining Act – Criteria for Approval

H. Will not unreasonably cause or increase flooding of the area altered or adjacent properties or create an unreasonable flood hazard to any structure.

I. Adequate provision for protection of public safety.

J. Will not use heap or percolation heaping.
Mining Act – Actions that must be taken by State Agencies

• By January 10, 2014, DEP must provisionally adopt and submit rules to the Legislature for review.
• BEP held a public hearing on draft mining rules mid-October. Today it will hold its 2nd deliberation session on comments received.
• By January 10, 2014, LUPC must provisionally adopt and submit to the Legislature rules related to LUPC certification of metallic mineral permit applications.
• LUPC has amended its rules relating to rezoning for metallic mineral mining in the unorganized areas.
CLOSING THOUGHTS