



**Testimony of Sean Mahoney
Conservation Law Foundation
In Opposition to LD 1853
An Act to Improve Environmental Oversight and Streamline Permitting for Mining in
Maine
Before the Legislative Joint Standing Committee on Environment and Natural Resources
March 30, 2012**

Senator Saviello, Representative Hamper and Members of the Environment and Natural Resources Committee:

My name is Sean Mahoney and I am the director of the Conservation Law Foundation here in Maine. Prior to joining CLF in 2007, I represented a mining company that was involved with the copper and zinc mine in Blue Hill Maine under Second Pond. Based on that experience, I have significant concerns with LD 1853.

The lawyers who drafted this proposed legislation for the Irving Corporation have stated that it is in part modeled on legislation recently passed in Michigan. Unfortunately they have adopted only the end product and not the process used in Michigan. In Michigan, that process took more than a year to review other models, new technologies, risks and benefits and ended up with legislation supported by mining companies, fisherman, guides, environmental groups and county and municipal officials. That legislation was adopted unanimously by the Michigan Legislature followed by regulations developed by the analog to our DEP and also unanimously approved a year later. I know how hard this Committee has worked to gather information and understand the ramifications of the proposed testimony. But open pit mining is more than just a potential economic development – it has a track record in Maine and elsewhere of causing significant harm to Maine’s waters and natural resources - and before new setting statutory requirements are set, a process like that in Michigan should be followed.

LD 1853 itself in its original form was poorly drafted and overreaching in many respects. I recognize that the version before you now is an improvement and appreciate and commend the work that you and Committee staff have done in that regard. CLF remains opposed to the bill nonetheless for a number of reasons. Working with other organizations who share our concerns, we have provided specific changes that if made in their entirety would significantly improve the bill. I attach those comments again for ease of reference and would be happy discuss them in detail should you like. I would like to focus on three areas in particular.

Financial Assurance – The current regulations require that financial assurance be accomplished through a trust instrument. As I noted in testimony during a work session, a trust provides the most protection against the State being left with an abandoned mine site that is contaminating land and water resources. There has been no testimony to the contrary that I am aware of. Open pit mines have left unfunded environmental liabilities all over the world and as close as the Callahan mine on the Blue Hill peninsula. Should open pit mining take place in Maine, every possible protection should be taken to prevent Maine taxpayers from footing the bill.



Public Notice/Participation – As with any development, notice of a proposed mining operation should be provided not just to municipalities or counties but also to abutting landowners, existing users of the resource and other interested parties. That includes notice not just of the initial application but also any significant modifications to the scope or nature of mining operations, changes in ownership and suspension of operations.

DEP/LURC resources – Because Maine has very limited experience with open pit mining and mineral mining in general, it is critical that the agencies tasked with governing and regulating the location, development, operation, reclamation and closure of mine operations have adequate resources to develop the necessary regulatory framework, implement and enforce the relevant statutory and regulatory requirements and to ensure that responsibility for the cleanup and closure of any mining operations falls squarely on the owner and operator of the mine.

Open pit mining is an inherently risky activity regardless of technological advances. We do and should use our natural resources to provide economic opportunity for our communities but we must do so in a way that doesn't sacrifice those natural resources over the long term. In its current form, LD 1853 fails to achieve that balance.