

From: [Bertocci, Cynthia S](#)
To: [Lindsay Newland Bowker](#)
Cc: [Burke, Ruth A](#)
Subject: RE: Reject DEP's Request To Schedule a Public Hearing on Revised Chapter 200 Rules; Frmer Chair Has Testified Existing Statute Lacks Standards & Clarity Suffcient For Rulemaking.
Date: Tuesday, August 16, 2016 3:42:36 PM

Ms. Bowker:

I am in receipt of your email. It will be shared with Board members.

Cindy Bertocci

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From: Lindsay Newland Bowker [mailto:lindsaynewlandbowker@gmail.com]
Sent: Tuesday, August 16, 2016 3:35 PM
To: Burke, Ruth A; Bertocci, Cynthia S
Cc: Eric A. Tuttle; Martha Spiess; Foley, Robert; Joan Welsh; Senator Tom Saviello
Subject: Reject DEP's Request To Schedule a Public Hearing on Revised Chapter 200 Rules; Frmer Chair Has Testified Existing Statute Lacks Standards & Clarity Suffcient For Rulemaking.

Board of Environmental Protection, Maine DEP
 17 State House Station
 28 Tyson Drive
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 287-2811 fx 287-2814

Dear Chairman Parker, Mssrs. Ahlers, Easterly, Dobbins, Draper, Mapes and Ms Chase.

I'm writing to urge the BEP to reject the DEP's request to schedule a public hearing on the Department's proposed Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining.

Former BEP Chair Foley testifying at a briefing of the JSCENR on the last round of the twice rejected rules offered by DEP was very clear that **the Board found no guidance on the main standards and intent in any of the questions they struggled with in earnest in the their deliberations.** Both

current Chair Parker and Professor Thomas Eastler were also on the Board at the time and it was clear in all their comments that they were so gung ho on mining they didn't see or understand the very obvious and troubling ambiguity in law Chairman Foley and other members, especially also former Chair Ms. Lessard, were struggling with.

It is apparent on review of all the tapes of BEP proceedings, which we also have thanks to the dedication of Eric A. Tuttle and Martha Spiess, that the Chairmans view was the majority experience notwithstanding the unbridled enthusiasm for the idea mining in Maine that clearly clouded now Chair Parker and still member Eastler's ability to see and understand how profound the ambiguities in law were and are.

Former Chair Foley further testified with straightforward eloquence that the Board was not happy with the rules as transmitted to the legislature but were forced to submit them in that state because they were told there was a statutory deadline on the submission and they would have to start over with all new public hearings if they missed the deadline.

One or both of the videographers has this testimony on tape. Between them they created a complete public record of critical deliberations for which there is otherwise no public record. I will separately send you my letter of appreciation to now Representative Foley for his candor and forthrightness on fundamental flaws and gaps in the statute itself that kept coming to the Boards attention..

Chairman Foley presented an eloquent summary of all that he testified to in the briefing before the JSCENR to the full legislature in his floor speech before the rejection of the rules by an overwhelming bipartisan majority. .

Chairman Foley held a light on the path for you now to guide whether you put the Board the public, environmental advocates and the legislature through this process when the JSCENR has not itself acted to clarify intent in statute. There is no reason to believe that the questions you will have will find any more guidance in the present extremely confusing and internally self contradictory statute than Former Chair Foley and your predecessors did.

Until and unless there is a newer clearer better informed and better written statute it is a waste of public effort to just go through the same labyrinth again.

Instead of acting on DEP's request (I don't believe you have to vote yes or no to what comes before you, I believe you can simply defer it) I ask you to listen to former Chair Foley's testimony to the JSCENR which by copy of this, I am asking Martha and/or Eric to locate and provide to you.

The JSCENR is solely responsible for this poorly written, internally self contradictory statute which sets separate and lower environmental standards for mining, the riskiest of all human endeavors in terms of human health and environmental liability, than presently exist for big box stores, schools, hospitals, college campuses or even government offices. It did this ostensibly because the old mining rule was too strict but the old mining rule (also very poorly written and poorly informed). but in truth the old mining rules held mining to the same standards as all other large scale enterprise in the state. It was untruthfully put forward that mining meant big tax revenue and lots of jobs for a despraeatly depressed county when in truth as a noted mining economic geologist has written to state Geologist Marvinney and JSCENR Co Chair Saviello, only crackpots and fringe golk would consider de novo mining in Maine now on on the forseable future on a plain economics basis.

Economic viability of nining has been examined many times in Maine by expert respected people most recently by my my colleague Dr. Williams who was given access to all the records. It just isn't there. on purely economic terms Bald Mountain and all other known deposits in Maine are presently of no value or interest as We have no known metallic mineral deposit capable of supporting a profitable mining operation. That is a fact. Ask Dr. Saviello. Even he gets that now. There are no jobs. There is no tax revenue, There is no net plus economic spin off.

Follow former Chair Foley's light, reject consideration of these rules and instead as the JSCENR to resolve the ambiguities in the present statute so that you have a statute you can write rules for. It has been Bowker Associates testimony, based on our considerable and globally recognized experts in mining, that there is no fix for the present statute. It needs to scrapped and written from scratch not by a part time legislative board but by actual experts in mining but to a clear plain english standards that clearly reflect and re iterate the values and desires of the full legislature and all the people of Maine.

That is the path I ask you to ask the JSCENR for.

This is the path I ask you to hold a light on.

Lindsay Newland Bowker, CPCU, ARM Environmental Risk Manager

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