SENATE BILL REPORT

SB 5662

AS REPORTED BY COMMITTEE ON NATURAL RESOURCES, MARCH 3, 1993

Brief Description: Regulating metals mining.

SPONSORS: Senators Owen, Erwin, Spanel, Franklin, Haugen, Fraser, Sutherland and Williams

SENATE COMMITTEE ON NATURAL RESOURCES

Majority Report: That Substitute Senate Bill No. 5662 be substituted therefor, and the substitute bill do pass.
Signed by Senators Owen, Chairman; Hargrove, Vice Chairman; Amondson, Erwin, Franklin, Haugen, Snyder, and Spanel.

Staff: Erika Lim (786-7488)

Hearing Dates: February 22, 1993; March 3, 1993

BACKGROUND:

Metals mining is the extraction of metallic ore from surrounding hard rock. There are several methods, including milling and leach mining. Milling involves crushing rock and mixing it in an enclosed tank with a solvent. Leach mining involves piling crushed rock onto a leaching pad and soaking it with a solvent. In both types of mining, the solvent dissolves the metal and carries it out of the rock. The solvent/metal mixture is then recovered and processed. The solvent is generally reused.

Both milling and leach mining are commonly used to mine gold. A cyanide solution is the solvent in both processes.

SUMMARY:

A person who intends to file for a metals mining permit must file a notice of intent to file with the Department of Natural Resources (DNR). DNR must then give public notice of the notice of intent.

DNR must also then initiate a scoping process for agencies and the public to identify areas of concern which must be addressed in the permit application. The scoping process will begin 90 days after DNR receives the notice of intent. The scoping period will be 45 days long. Agencies may use information received during the scoping to require additional information in the permit application.

The metals mining permit application has six parts: (1) general information, including name, address, and phone number of the applicant, cumulative foreseeable environmental

effects, alternatives to the plan of operation, economic costs and benefits, topographic map and aerial photos showing all waters and wetlands within 15 miles of the proposed site, and identification of federally endangered or threatened species; (2) operating plans, including identification of planned construction and excavation, habitat and wildlife protection, water management plans, air quality protection, hazardous materials storage plans, reclamation and detoxification plans; (3) local impact analysis, including effects on social services, infrastructure, land values, and demographics; (4) worst-case scenario and analysis; (5) other information that agencies may require; and (6) synopsis of less than 60 pages that lay people can use. DNR may promulgate rules requiring more information.

Applications for permits to appropriate water must describe the nature of the mine, the method of water supply and use, and the impact on local seeps, springs or wells used by wildlife or humans.

Concerned agencies will develop estimates of the cost of reviewing each application and the permit applicant is responsible for these costs. The applicant may not directly contract with consultants to conduct studies needed for the application. DNR will contract and the applicant will be responsible for the cost of the studies.

DNR must give public notice of receipt of a metals mining permit application by mail and by publication. The permit applicant must post a sign at the site of the proposed operation.

DNR will hold an informal public hearing not less than 30 days after receipt of an application. Not less than six months after each concerned agency has completed draft permits and decision documents, DNR will hold a formal hearing. Organizations representing at least 20 people, or persons who are distinctly affected by the proposed mining, may participate in the formal hearing. Funding will be made available to organizations wanting to improve the quality of their participation. All agencies' decisions regarding granting or denying permits will be based on the evidence in the formal hearing records.

If an applicant, an applicant's financial parent, or a subsidiary of an applicant's financial parent is in violation of any state or federal mining laws within two years of application date, a permit will not be granted. If an applicant makes any commitments during the approval process, those commitments become part of the permit and are also binding on subsequent mine owners.

Before issuing a permit, the Department of Ecology will determine whether overburden and other spoils and waste material can be backfilled. If the material cannot be safely backfilled, the department shall not issue a permit and the permit process is discontinued.

Permits issued for metals mining must include certain conditions, including measures to protect birds and animals and measures to detoxify and contain tailings ponds.

The Wildlife Commission will promulgate rules by which the Department of Wildlife may issue a metals mining permit.

The Department of Ecology will promulgate rules regarding containment and monitoring of leachate.

Once a month for at least two years before a mining operation is started, DNR will gather baseline information on water and air quality, noise, light, and plant and animal life. The permittee must reimburse DNR for the costs of gathering this baseline data. Baseline data will be made available to the public.

The permittee must ensure that construction, operation and maintenance comply with the conditions of the permit. The permittee must periodically submit construction progress reports signed by a registered, professional engineer.

Liners must be used with all pads, ponds, ditches, pipes and pumps holding leaching compounds. A monitoring system must also be used wherever leaching compound is held. Surface areas must be stabilized and protected. Acidic or toxic spoils must be detoxified.

The Department of Ecology will monitor ground and surface water. If a leak or spill is detected, operations must stop until the problem is solved. The Department of Ecology will promulgate rules regarding dust emissions. The Department of Ecology will also promulgate rules by which cyanide and other solvents are transported. Cyanide and other solvents will be stored away from incompatible chemicals.

The permittee will educate its employees about monitoring and handling leaching compounds and about emergency response. Continuing education must be provided every year to employees.

A permittee must prepare a manifest for process-related waste transported out of the facility for disposal. The permittee is also responsible for making sure that the waste reaches its disposal site. Noncompliance with this section is grounds for fines and permit revocation.

Concerned agencies and DNR have a right of access to facilities and to records pertaining to operation and maintenance to ensure compliance.

A permittee who fails to report or who tries to cover wildlife deaths will have all permits revoked for two years.

DNR and all concerned agencies will be notified at least 30 days before a facility is constructed, started up, seasonally closed, or permanently closed. Before closing either seasonally or permanently, a permittee must have established procedures designed to ensure non-movement of contaminants.

In order to maintain a permit, a facility must operate at full capacity at least six months out of any 12 month period. If a facility has been closed for more than six months, DNR or the Department of Ecology will require permanent closure. Site reclamation will begin one week after permanent closure.

Exploration must be conducted according to applicable reclamation, monitoring and waste handling laws. It must be conducted with minimal environmental impact. An exploration permit must be obtained and a fee must be paid. Penalties are prescribed for noncompliance with exploration laws.

When submitting an application, an applicant will estimate the cost of reclamation. DNR will use the reclamation estimate and the worst case scenario analysis to determine the amount of a reclamation bond. A permittee will post this reclamation bond before the start of operations. DNR may seek a lien to cover reclamation costs if the amount of the bond proves to be insufficient. A permittee may request release of its reclamation bond. DNR will establish and manage a metals mining reclamation fund to pay for costs incurred by closed facilities which posted insufficient bonds. DNR will attempt to recover from the permittees of these closed facilities. This fund will receive $60,000 a year from each metals mining permittee whose operation is larger than three acres.

DNR will establish a citizens' advisory committee for each metals mining operation. Each committee will consist of eleven members, seven from the area immediately surrounding the operation and four who have interest or expertise in the operation. The committee will oversee implementation of the permit and ensure compliance with all conditions.

EFFECT OF PROPOSED SUBSTITUTE:

The original bill is stricken.

A 14-member task force is created to recommend legislation to regulate the development, operation, and reclamation of open-pit chemical leach mines. The task force will be composed of the Chairs of the House Natural Resources and Parks Committee, the House Environmental Affairs Committee, the Senate Natural Resources Committee, and the Senate Ecology and Parks Committee; the Commissioner of Public Lands; the Director of the Department of Ecology; two representatives of the mining industry; two representatives of environmental organizations; and four members of the general public, two from west of the Cascades and two from east of the Cascades. The task force will submit recommended legislation by January 1, 1994.

This act will expire January 1, 1994.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: July 1, 1993

TESTIMONY FOR:

Other states which have open-pit chemical leach mines have experienced environmental damage from both the physical mining and from the chemicals used in the extraction process. There should be a coordinated effort between state and federal agencies to regulate this type of mining to reduce or prevent environmental damage.

TESTIMONY AGAINST:

There are already adequate regulations at the federal, state, and local levels. The provisions of this bill would make leach mining economically prohibitive.

TESTIFIED: Senator Barr (con); Commissioner Jennifer Belcher, Commissioner of Public Lands; Ray Lasmanis, DNR; Chris Parsons, Washington Coalition for Responsible Mining (pro); Darlene Madenwald, Washington Environmental Council (pro); Chris Carrel, Washington Wilderness Coalition (pro); Richard Parks, Northern Plains Resource Council (pro); Michael Mazzetti, Okanogan Highlands Alliance (pro); Llyn Doremus, Washington Coalition for Responsible Mining (pro); Van Diep, Student Action for the Environment (pro); Ivan Urnovitz, Northwest Mining Associates (con); Don Whitworth, DuPont-Conoco (con); Michael Kenrick, Golder Association (con); Reese Hastings, Asamera Minerals (con); Ron Clayton, Hecla Mining (con); Hank Lesinsky, Echo Bay Minerals (con); Ozzie Wilkinson, Northwest Alloys (con); Ron Weeks, Okanogan County Board of Commissioners (con); Ken Rosenberg, Ferry and Stevens County representative (con)