

MEMO

To: Natural Resources, Environment and Great Lakes Committee Members
Chair - Senator Tom Casperson

From: Kevin Grzelak

Date: June 30, 2011

Re: HB 4746-Prepared Statement

Message:

I testified before this Committee on June 23, 2011 in opposition to House Bill 4746 and companion Senate Bill 470 as a Plaintiff in a lawsuit filed against Valley View Quarry (owned by Moyle Construction) and an owner of property adjacent to their operation. An Injunction was issued in that case against Valley View Quarry.

I strongly encourage members of this Senate Committee to vote "no" on the bill in its current form. This bill is being rushed through the legislature for reasons that include the hypothetical proposition that there are companies in the U.P. that are going to be shut down by environmental groups out of state coming into local communities as "plants" and influencing local government control. However, what seems apparent is that the aggregate community has "hijacked" our state legislature and they are setting the rules. Who is better able to manage issues within the community and keep outside influences away – Lansing or local government? Myself (and many Republicans, I believe) would say local government.

At the very least, I respectfully request the Committee members to at least table this bill to address a number of problems. First, the bill tries to reinstate the Silva Rule, which the Michigan Supreme Court clearly ruled to be Unconstitutional. Unfortunately, I may be one of the Plaintiff's forced into proving in court that the bill in front of you has that same constitutional defect. Second, the need for the Natural Resources in section 4) is a

"Personal Need" as opposed to a "Public Need". What good is that provisional as needs vary from person to person. What is needed is a public need. Third, section 6) makes clear that this bill does not limit a local unit of Government's reasonable regulation, however, it also states that such regulation shall be reasonable in accommodating customary mining operations. Customary mining operations in remote locations (e.g., middle of the desert) should not be used to establish rules for mining operations in someone's back yard. This sentence should be removed or amended to make clear that it takes into consideration the location. Finally, the bill does nothing to enable enforcement of the local government's regulation. I ask that the Senate consider amending the bill to provide an enforcement tool to enable the local government (e.g., township) and those affected to regulate the operation. Perhaps, a violation of the township regulations could be deemed a criminal violation or perhaps statutory damages could be specified, such that townships and affected neighbors can enforce the regulations without undue cost burden.

Myself and others spent a lot of money to shut down the Valley View Quarry operation essentially because Valley View Quarry refused to be a "good neighbor". Had Valley View Quarry simply followed reasonable rules to be a "good neighbor", it never would have come to this. If this bill somehow reverses our efforts and Valley View Quarry resumes their operation as a "bad neighbor" you will have failed in your job as our state legislature to ensure that the people in the State of Michigan can live in harmony with such operations. Senator Casperson has assured myself and the Betterly's that this bill, if passed, will not reverse our efforts and that he personally will see that our issues with Valley View Quarry are amicably resolved. We trust he will keep his promise.

Thank you.