



**Testimony Regarding House Bills 5400-5402
House Natural Resources Committee
Representative Andrea LaFontaine, Chair**

Submitted in writing by
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Tip of the Mitt Watershed Council
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Tip of the Mitt Watershed Council, on behalf of its 2,500 plus members, wishes to extend our concern for House Bills (HB) 5400 – 5402. These bills would allow industrial waste materials, such as coal ash, stamp sands, lime softening residuals, and foundry sand to be reused on roads and parking lots and for ground application.

The Watershed Council generally supports reuse of byproducts and has recommended reuse be pursued as a priority management option for certain activities, such as the beneficial reuse of dredged material in the Great Lakes. With proper testing and government guidelines to protect human health and the environment, beneficial use can be a sound business practice due to the numerous benefits it can provide economically, environmentally, and socially. However, beneficial reuse of industrial byproducts need to be conducted in a manner that ensures protection of public health and the environment and that use of the materials is monitored and tracked in a way that reasonably controls public exposure to materials in the future. The Watershed Council has significant first-hand experience of how detrimental reuse of industrial byproducts can be to a community and the health of our Great Lakes, if not done correctly.

For over 20 years, the Watershed Council has been actively involved in the cement kiln dust (CKD) contamination at Bay Harbor properties in Northern Michigan. During the 80 years of cement manufacturing in Petoskey, an estimated 2.5 million cubic yards of cement kiln dust (CKD) waste was produced. Despite concerns expressed by the Watershed Council and community members, this industrial byproduct was deemed to be inert and was, subsequently, reused in the development of Bay Harbor Golf Course. The result was contamination of a 5-mile stretch of Lake Michigan shoreline that harmed water quality, fish, and other aquatic life as well as Northern Michigan's tourism industry and economy. You can't sell houses, or greens fees, or burgers to people who won't come to our region because they think the resources are contaminated or threatened in some way. Still today, thousands of gallons of contaminated groundwater must be collected and disposed of and all remediation activities at this site have to

continue in perpetuity to ensure our Northern Michigan citizens and environment are protected in the future.

We have seen first-hand what can go wrong with beneficial reuse of industrial byproducts. To prevent this from happening elsewhere in the state, any legislation expanding beneficial reuse must include provisions to ensure protection of the environment and public health. As such, we recommend the following changes be made to House Bills 5400 – 5402:

- HB 5400 establishes a standard for materials that allows them to leach at 20 times the allowed drinking water standard just four feet above the water table which could contaminate drinking water aquifers. The allowable leaching standards need to be significantly decreased to reduce the potential for contamination of drinking water sources.
- The bill fails to notify property owners that low-hazardous materials are/have been used on their property. Notification needs to be expanded to include notice to all property owners when industrial byproducts are being used on their property.
- The bill allows for fly ash from coal plants containing significant levels of mercury to be spread across the state in road beds and under parking lots. Michigan is already plagued by mercury contamination; all of the Great Lakes are under a fish consumption advisory and we have a statewide advisory against eating too much fish from inland lakes because of mercury contamination. Additional mercury contamination of our waters, aquatic species, and citizens needs to be prevented. Fly ash from coal plants should be excluded from beneficial use 2.
- The bill exempts the generators and users from any future liability, leaving the current owner, local units of government, and the state to address any problems that arise later. This could leave local communities and the state responsible for cleanup and remediation which often costs millions of dollars. The generator and user need to remain a liable party should future contamination arise as a result of reuse of the industrial byproduct.
- Citizen participation is vital in any decision-making process. As we saw from the Bay Harbor contamination, the entire community is affected in the event that something goes wrong. A public participation process for beneficial reuse projects would allow citizens to voice their opinion and will improve the decision making process helping to minimize potential adverse impacts from occurring in the future. Establish a formal public participation process for industrial byproduct reuse projects.

If we are going to maintain the proud heritage of the “Great Lakes State” and “Pure Michigan,” we must remain vigilant in our efforts to protect our most valuable resources. We ask that you oppose House Bills 5400-5402 until these concerns have been adequately addressed. We urge you to give careful consideration to the comments provided and incorporate the recommended changes into the bills to protect the health of our ground and surface waters, Great Lakes, and the citizens and visitors who rely upon those water resources.

Thank you for the opportunity to comment. If you have any questions about the comments provided, please feel free to contact me at jenniferm@watershedcouncil.org or 231-347-1181.