MICHIGAN
LEAGUE OF
CONSERVATION
VOTERS

Date: May 9, 2023
To: Members of the Michigan House Committee on Regulatory Reform
From: Nick Occhipinti, Government Affairs Director
Re: House Bills 4526, 4527, and 4528: Oppose

Members of the Michigan House Committee on Regulatory Reform:

Michigan LCV opposes House Bills 4526-4528 because they are not crafted to solve a public policy issue, but instead are designed to gain industry more access to virgin aggregate materials at the expense of local communities, quality of life, and the natural world.

Supply Driven Aggregate Mining Policy Should Include Robust Recycling Policies
If statewide aggregate supply issues are cited as the need for these bills, policy makers should ensure our current mining and construction policies encourage the efficient recycling of aggregate resources. Using recycled aggregates decreases the need for virgin aggregate materials and increases supply. The United States recycles about 200 million metric tons of aggregate each year, the majority of which is sourced from construction, demolition, and roadway debris.

According to the Portland Cement Association, using recycled materials does not have to sacrifice quality - cement mixes can be made with up to 30% recycled material without seeing a change in performance. Yet, according to a 2016 study conducted by the Michigan Department of Transportation, only 10% of SE Michigan's total aggregate consumption was based on recycled materials.

Aggregate Mining Causes Extensive Damage to Soil and Destroys Natural Areas
Aggregate mining degrades farmland and local natural areas through the clearing of soil, seeds, grasses, trees, and other foliage from the land, all of which work together to keep soils fertile and tillable. The mining process exposes otherwise healthy bottom soil, and degrades and compresses surface soil nutrients when it is stacked and stored. The impact of the removal of the natural surface ecosystem (the "overburden") cascades through the environment damaging the local ecosystem, harming native species, introducing invasives, and increasing erosion.

Restoration of the land to its original condition after aggregate mining is not possible. According to the American Geological Institute in cooperation with the U.S. Geological Survey,

"We do not yet have the level of information and skill required to return ecosystems exactly to their original structure nor is the same amount of excavated material available to fill a pit and return it to the original ground contours. In addition, the new land is environmentally unstable, and exotic species invade disturbed sites. Many native organisms do not return or fill the same ecological niche."

Without ecologically informed and science-based restoration practices, aggregate mining's impacts on soil health and structure can devastate natural landscapes for generations.

Scientifically Backed Reclamation Policies Are Needed to Mitigate Soil Degradation
To minimize aggregate mining's detrimental effects on the environment (and particularly, soil health), Michigan should establish specific, detailed reclamation standards that are rooted in the most up-to-date ecological and landscape architectural practices. That can be accomplished through the addition of a Soil Conservation and Restoration Technical Advisory Committee; the committee would be charged with offering recommendations and guidance for EGLE rulemaking, and would be modeled after the on-site wastewater technical advisory committee approach.

The Committee would offer expert advice to EGLE on policies that encourage soil restoration like segmented mining, live topsoiling, and layered erosion control, are examples of best practices that ensure soils can support life after mining. These practices minimize soil nutrient loss, which is accelerated by exposure to dry air, pollution, and erosion, by ensuring the topsoil is minimally disturbed and that native soil and its microorganisms are quickly returned to their natural location. Additionally, practices that require science based revegetation practices (including a diverse seed bank and native and pollinator-friendly plants) can reduce the chances of invasive species introduction and ecological collapse on a mined site.

The Legislation Falls Short of Environmental Protection in Myriad ways
The legislation:

-Fails to detail an environmental protection plan
The addition of an environmental protection plan is an important addition and the language associated with the plan from part 632 should be inserted [MCL 324.63205 requires a "mining, reclamation, and environmental protection plan".] This should include language including credible, independent groundwater testing, a contingency plan that includes an assessment of risk to the environment or public health and safety, a list of other state local or federal permits and putting the burden of establishing that the terms and conditions will result in a mining operation that reasonably minimizes actual or potential adverse impacts on air, water and other natural resources.

-Does not Include all aggregate mines in a statewide regime - Section 63907 All aggregate mines should be required to come into this program by the end of 5 years.

-Groundwater testing needs to occur before, during and after site work - It needs to occur on the site and around it in affected areas [Section 63916 Violations] it is necessary to pre-emptively and actively test groundwater independently or it will be difficult to know when there is a problem.

-Provides Inadequate financial assurance
-Pg 21, line 22: Financial assurances should be a minimum of $8000 per acre and pegged to CPI; must exclude the mine and related equipment being covered

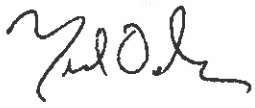
-Section 63922 vacates years of administrative and judicial rulings
For all mining permit applications, even if a court upheld a local decision to deny a permit for very serious consequences, that opinion would be moot.

Conclusion: The proposed aggregate legislation is the worst of two worlds
It creates the need for a big, new bureaucratic process, but it doesn't actually deliver environmental protection. The mining and reclamation plan's Environmental Impact Assessment requires the description of features, but it does not require any protective actions. The Soil Conservation Plan requires mine operators to "Include steps for the conservation of Topsoil" but it offers no statutory framework for prescriptive requirements.

This is an unbalanced, unnecessary bill written by an industry that will negatively impact Michigan quality of life. The bill doesn't allow for local review if project developers submit the required paperwork, and there is significant dispute about how many decades of materials Michigan already has in reserve. Aggregate mines damage the land, disturb communities, and simply don't belong everywhere.

Michigan LCV reserves the right to score in favor of NO votes on this bill. Please do not hesitate to contact our organization to provide clarification or further detail about the ideas contained herein.

Respectfully,



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