



September 14, 2020

Via Electronic Mail

Dear Chairman Wooster and members of the Land Use Planning Commission (LUPC, the Commission):

I am writing on behalf of the Natural Resources Council of Maine (NRCM), Maine's largest environmental advocacy group with more than 25,000 members and supporters. NRCM strongly opposes Wolfden Resource's (Wolfden) request to narrow the scope of LUPC's review of its rezoning proposal for the proposed Pickett Mountain Mine. Wolfden's request, in its August 26, 2020, letter to the Commission, is an egregious attempt to bypass LUPC's zoning requirements for mining that exist, first and foremost, to protect the health of the environment and Maine people. We urge the Commission to reject Wolfden's request.

This proposal is the first under LUPC's new mining rules, and any LUPC decision will set an important precedent. NRCM strongly supports LUPC staff's September 8, 2020, memo to Commissioners, which states, in part:

To approve rezoning to a D-PD subdistrict for a metallic mineral mine, the Commission must find that there is substantial evidence that, among other criteria, the proposed change in districting is consistent with the purpose and intent of 12 M.R.S. ch. 206-A, which includes sound planning and zoning, and with the standards and purpose of the D-PD subdistrict. 01-672 C.M.R. ch. 12, § 4(B)(1)(a), 4(C)(1)(p). "The purpose of the D-PD subdistrict is to allow for large scale, well-planned development," proposals for which the Commission will consider "provided they can be shown to be of high quality and not detrimental to other values" of the Commission's jurisdictional area. 01-672 C.M.R. ch. 10, § 10(H)(1). Staff believe that whether a project is technically feasible and financially practicable is a particularly important consideration for a custom zone, such as a D-PD subdistrict, that will be specifically established for a single, large-scale development project. A project that is not technically feasible and financially practicable raises concerns regarding whether the project is a well-planned or high-quality development, and therefore satisfies the requirements of 01-672 C.M.R. ch. 12, § 4(B)(1)(a) or 4(C)(1)(p).¹

Mining the type of deposit Wolfden owns, called a massive sulfide deposit, is one of the most dangerous industrial activities in the world. In Maine, metal deposits often contain high levels of sulfur and dangerous heavy metals, such as lead and arsenic. When sulfur in mining waste and ore reacts with water and air, it creates sulfuric acid, which in turn causes toxic metals to leach into the environment. The acid and toxic metals can contaminate ground and surface water and harm fish, wildlife, and people.

¹ 2020. Memorandum from Stacie Beyer to LUPC Commissioners re Wolfden Rezoning Petition, ZP 779; Wolfden Letter Dated August 26, 2020. September 8. P. 4 of 6. Accessed at https://www.maine.gov/dacf/lupc/projects/wolfden/comm_mtg/WolfdenPetition_CommPkt_September2020.pdf

Prior sulfide deposit mines in Maine have left a long, expensive legacy of serious pollution problems. We have had two such mines: the Black Hawk Mine in Blue Hill and the Callahan Mine in Brooksville. Both mines went bankrupt in the 1970s soon after they began operations. It took decades to force a previous owner to remediate the Black Hawk Mine through litigation, and Maine taxpayers have paid more than \$8 million to clean up the Callahan Mine since 1972.² Cleanup there is nowhere near complete, and total cleanup costs, including federal Superfund expenses, could reach \$45 million.³

We never want this to occur again in Maine.

LUPC staff must keep asking Wolfden the reasonable questions it has been asking about the technical and financial practicability of Wolfden's proposal. LUPC staff have been asking appropriate questions about technical and financial practicability for more than six months, and Wolfden has yet to respond with facts. The facts that do exist about Wolfden's technical and financial ability point to a company that is not capable of safely and economically developing a mine. As the *Portland Press Herald* reported in 2017:

According to the company's statement, Wolfden is a mineral exploration company with interests in Manitoba and northern New Brunswick. Corporate filings show that the company has yet to move from exploration to actual mining at any of the sites. The most recent quarter report stated that Wolfden has lost more than \$17 million (U.S. dollars) since 2009, including more than \$800,000 during the first two quarters of 2017.⁴

This may explain why Wolfden has avoided answering LUPC staff's questions about technical and financial practicability and have now turned to an attorney to justify its inability to answer LUPC staff's important questions in a reasonable and timely manner. NRCM urges the Commission to continue to support the staff's pursuit of answers to these necessary questions to determine if Wolfden has the capability to develop a mine in Maine in a safe, well-planned manner that would meet LUPC's rezoning requirements. If Wolfden cannot demonstrate such capability, then the Commission must deny the rezoning request.

Another reasonable and important line of questioning from LUPC staff concerns Wolfden's claims about its ability to treat wastewater to be as clean as natural groundwater. LUPC and Department of Environmental Protection (DEP) staff have appropriately discussed this issue with each other. Consultations with other agencies are standard LUPC staff review procedures, as LUPC's web page describing its review process on Wolfden's proposal makes clear:

The LUPC staff undertakes a detailed review and analysis of the petition. This includes meetings with the petitioner, state and federal review agencies, and others to clarify issues and request more information as needed. The petition is mailed to various state and federal agencies for

² Figures compiled by NRCM. Accessible at <https://1drv.ms/w/s!AkLihAdyxqVvkX0DZI-w6Z5wwGAO?e=2ajKre>.

³ 2017. Marina Villeneuve, Associated Press. New England confronts little-known, messy legacy of mining. May 13. Accessed at <https://www.foxbusiness.com/markets/new-england-confronts-little-known-messy-legacy-of-mining>.

⁴2017. Kevin Miller, Portland Press Herald. Mining company plans to buy northern Maine mountain. September 8. Accessed at <https://www.pressherald.com/2017/09/08/mining-company-plans-to-buy-northern-maine-mountain/>.

review and comment. The staff may also engage independent consultants to gather information on issues that staff believes to be necessary and legally relevant.⁵

DEP has already told both Wolfden and LUPC staff that Wolfden cannot legally discharge wastewater to any streams in the Pickett Mountain area because they are all too small. Maine statute (Title 38 Section 464(A)(1))⁶ prohibits discharges of wastewater to streams with watersheds of less than 10 square miles. Therefore, DEP would require Wolfden to discharge to groundwater and to treat any wastewater to pollutant levels equivalent to natural groundwater in the area if Wolfden ever applies for a permit. Given this, it is entirely reasonable for LUPC staff to ask Wolfden for an example of a similar mine elsewhere that can treat its wastewater so effectively, which LUPC staff did in their letter of March 6, 2020. LUPC staff asked for an answer within 30 days⁷ and still have not received one six months later.

Instead, Wolfden discussed the wastewater treatment system at the Halfmile Mine in New Brunswick in its petition amendment dated Jun 30, 2020.⁸ This mine is not relevant to the proposed Pickett Mountain Mine. The Halfmile Mine ships its ore to another facility for processing.⁹ Therefore, its wastewater treatment plant is dealing with a much lighter load of pollutants than a mine with an on-site beneficiation plant that concentrates ore, as Wolfden has proposed at Pickett Mountain.

LUPC staff need evidence on Wolfden's claims about its wastewater treatment capability for two reasons. First, it makes no sense for LUPC to issue a rezoning for a mine that cannot possibly meet DEP's future requirements. That is an enormously inefficient use of staff resources at Maine agencies. In addition, to grant a rezoning, the LUPC must consider: "Potential impacts to existing uses and natural resources including, but not limited to: forest resources; historic sites; wildlife and plant habitats; scenic resources; water resources; and recreation resources."¹⁰ LUPC cannot consider the impacts to water resources, recreation resources, scenic resources, or wildlife and plant habitats without some evidence that Wolfden can actually treat wastewater to natural background levels. If Wolfden cannot provide evidence that its wastewater treatment claims are true, then LUPC cannot conclude that rezoning for Wolfden's project "will have no undue adverse impact on existing uses"¹¹ as Chapter 12, Section 4(B)(1)b requires.

In closing, NRCM strongly supports LUPC staff continuing to examine the technical and financial practicability of Wolfden's proposal and other relevant considerations for rezoning, such as Wolfden's

⁵ Accessed at https://www.maine.gov/DACF/lupc/projects/wolfden/wolfden_rezoning.html.

⁶ Accessed at: <https://legislature.maine.gov/legis/statutes/38%20Old/title38sec464.html>.

⁷ 2020. LUPC. Letter from Stacie Beyer to Wolfden Resources. March 6. P. 4. Accessed at: https://www.maine.gov/dacf/lupc/projects/wolfden/hearing_record/4.5_2020-03-06_LUPC_Letter_AdInfo_Request.pdf.

⁸ 2020. Wolfden Resources. Petition to Rezone Portion of Township 6, Range 6 Penobscot County, Maine for Development of an Underground Metallic Mineral Deposit. June 30. Pp. 207-210 of the pdf file at https://www.maine.gov/dacf/lupc/projects/wolfden/notice/Woldfen_MtChaseLLC_Petition_Rev_Final.pdf

⁹ 2017. SRK Consulting. Technical Report on Preliminary Economic Assessment for the Halfmile-Stratmat Massive Sulphide Zinc-Lead-Silver Integrated Project Bathurst, New Brunswick, Canada. P. viii. October 26. Accessed at: https://www.maine.gov/dacf/lupc/projects/wolfden/hearing_record/4.7_2020-05-27_LUPC_Ltr_AdInfo_Request3.pdf.

¹⁰ LUPC rules. Chapter 12, Section 4(B)(3)(d). Accessed at https://www.maine.gov/dacf/lupc/laws_rules/rule_chapters/Chapter12_ver2013.pdf#page=2

¹¹ Accessed at: https://www.maine.gov/dacf/lupc/laws_rules/rule_chapters/Chapter12_ver2013.pdf#page=2

wastewater treatment claims. If Wolfden cannot answer LUPC staff's questions in a reasonable, accurate, and timely manner more than six months after staff began asking the questions, it is a strong indicator that Wolfden cannot develop and operate its proposed mine successfully, safely, and within the strictures of Maine law. Instead, Wolfden appears to be engaged in a speculative venture that poses a high risk to Maine's environment and taxpayers. Speculative ventures are not "well-planned development," which is the only type of development LUPC is supposed to approve. To do so, LUPC staff must ask the hard questions and Wolfden must provide the answers that Commissioners need to make an informed rezoning decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Bennett". The signature is written in a cursive, flowing style.

Nick Bennett
Staff Scientist