

[Midwest Mining Rush Threatens Water: Part V: Wisconsin, the “Prove It First” State](#)



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Among the three Great Lake states, Wisconsin’s mining law is by far the strictest and has essentially halted sulfide ore mining in the state. In 1998, Wisconsin approved a law that requires any mining company seeking a permit for metallic sulfide mining to prove that they have operated a similar mine for 10 years without polluting surface or groundwater either from the mine or from the tailings. The company must also show that they closed the mine and remediated the site and, for at least 10 years after, the water above and below ground remained unpolluted. The law has been slightly weakened by the state’s Department of Natural Resources that has not written administrative rules to apply the law.



A Native American at the Indian Summer festival, Henry Maier Festival Park, Milwaukee, Wisconsin. Photo: Photo: Dori/ Wiki Commons

Wisconsin's law was born out [of a long struggle](#) among mining companies, Native Americans and environmentalists.

Just three years after enactment of the Clean Water Act, in 1975, Exxon Minerals discovered one of the largest zinc-copper sulfide deposits in North America nestled in a deep growth forest at the headwaters of one of the last pristine rivers in the Midwest – the Wolfe River. But there was a hitch. The 60 million tons of copper and zinc encased in sulfide ore was in the middle of Indian Territory. And not just any Native American territory, but an area rich in history, dotted with sacred sites, burial grounds and, most importantly, wild rice that grows in small lakes – known by English speakers as Crandon and Mole Lake – and has been harvested by the local tribes for generations. The rice is intimately connected with the Native Americans' identity, and the lands were under treaty with the U.S. government allowing them to grow the rice and fish and hunt wild game.

In Wisconsin, as in Michigan, the struggling economy had turned to recreational tourism, spotlighting the Great Lakes, her tributaries and lush forestlands. The small, friendly town of Crandon has charm and can boast four lakes within the city limits. The Nicolet National Forest is nearby offering acres for hiking, rock climbing, hunting, camping and cross-country skiing in the winter. The Chamber of Commerce positioned the town and its natural surrounds as a year-round tourist destination. Even so, the proposed mine offered an unprecedented business opportunity – jobs, referral business and taxes. Some estimates suggest that the mine as planned by Exxon could bring a \$4 billion boost to the state and local economy.

Exxon had planned for a 30-year mine at what became known as the Crandon Deposit, but, when the price of metals dropped in the 1980s, they tabled the plans. Then, in 1994, they resurrected their intentions and combined efforts with a Canadian partner, Rio Algom, and named the venture Crandon Mining Co. That year, the new company applied for the permits to proceed with a mine that would ultimately pull 55 million tons of ore out of the earth at a rate of 5,500 tons a day and create 44 million tons of waste.

In reaction, Native Americans from Mole Lake appealed to the federal government for relief under a little utilized section of the Clean Water Act that allows tribes to be treated as states - setting water quality standards and issuing permits for discharges - if they meet certain criteria. A year later, the Environmental Protection Agency granted the Mole Lake Chippewa Tribe the right to regulate water quality on their reservation, including upstream discharges from the proposed mine. The tribe was able to apply for this status because their lifestyle and economy - of which the wild rice is a mainstay - were so completely interlaced with the waters. Even so, [Wisconsin fought the ruling](#) in court and argued it had ultimate authority over the waterways, knowing that if the tribe were to win, it would truly hamper the ability for the zinc-copper mine to move forward.

The Native Americans then allied with environmental groups, residents of the town of Nashville, and citizens from all over Wisconsin to oppose the mine. They successfully pushed through the 1998 “prove it first” law and eventually drove away the mining companies.

In that same year, Exxon sold off its portion of the mine to Rio Algom for nearly \$20 million with the caveat that they would get 2.5 percent royalty on the profits. As part of this change, Crandon became Nicolet Minerals Co. and refined the permit application with cutting edge ideas theorizing they could make sure less water would seep into the mine by piling in a mix of pyrite tailings and cement as backfill. This method assumes the acid-causing sulfur would be isolated. They included a heavy layer of grout that would lie over the mine to control future contamination, and they had a complex water treatment plant in the works. But even the company’s own models showed that future groundwater contamination was pretty much unavoidable. The mine would have to be monitored for centuries. This meant Wisconsin’s regulators were not willing to approve the plan, not unless the company could find a way to deal with polluted water in the underground mine after closure.

The Australian and South American mining mega giant Billiton Plc. bought Rio Algom. The new venture, once again, pursued the application, this time under the new metallic sulfide mining law. This new effort meant Billiton had to come up with a sulfide ore mine that they had managed in the past and had closed without polluting groundwater for up to a decade after closure. The company presented their parched Sucaton mine that sits in the midst of the Arizona desert. Since none of their successfully remediated mines were in a water-rich wetlands similar to the Crandon deposit, the application failed.

In the fall of 2003, Billiton’s subsidiary, Nicolet Minerals, officially withdrew their permit application saying, “Given the number of sulfide mines that have caused catastrophic water pollution in North America and the lack of reliable data to suggest that modern sulfide mining technology has improved sufficiently to justify taking the risks that this project poses, it is doubtful that [Nicolet Minerals] could, in good faith, meet its burden of proof under the Wisconsin Mining Moratorium Law.”

Ultimately, with Governor Scott McCallum’s help, the mine and the mining rights were sold to a broad based coalition of Native Americans, environmentalists, conservationists and concerned citizens. It came to be known as the Wolfe River Headwaters Protection Purchase. The group

bought 5,000 acres of land and \$16.5 million worth of mineral rights and stopped anyone from ever mining the Crandon deposit.

Next: Part VI: Minnesota: This Land is Your Land, This Land is My Land