http://newiprogressive.com/images/stories/S5/frac-sand-spill-ap-s5.jpg



The recent Hi-Crush Mine spill highlights how the poorly regulated sand mining industry has consequences on local communities. Wisconsin can do better to protect the public and the environment.

WHITEHALL, WI - “A really unfortunate series of circumstances,” was how Kevin Lien described a recent spill of ten million gallons of orange sludge from a sand mine processing facility.

A bulldozer and its operator slid into a deep settling basin at the Hi-Crush mine and sand processing plant in Whitehall, Wisconsin. Mine workers, working with emergency responders, dug through an earthen berm and intentionally released the thick, orange sludge.



The sludge ran into Poker Coulee, making its way downstream into the Trempealeau River. Eventually the material made its way to the Mississippi River.

Mr. Lien is the Director of Land Management for Trempealeau County. He spent nearly the past decade at the epicenter of sand mining in Wisconsin. Using the regulatory powers of the county, he worked with county board members to develop protections for the environment, communities and public health. The county continues to monitor many mines.

But the mine that discharged the orange sludge is out of his jurisdiction.

“The county has no jurisdiction,” Mr. Lien told me. “And, the city is unregulated.” The county has no jurisdiction because the mine is in both the cities of Independence and Whitehall. Several years ago, the mine sought and received approval to annex into the two cities – some five miles apart – to avoid county regulation.

Annexation was approved in late 2013 by the Whitehall and Independence City Councils.

A lack of regulation allowed the mine to avoid expensive but necessary protections.

“We would have required safety measures,” said Mr. Lien. “There should be fail-safe protections downstream.” For example, a check dam downstream would contain any spills. The settling basin contains a large amount of sludge—water, mixed with sand and chemicals.

“But the discharge is in the county, and that’s my jurisdiction.” After the spill, the county sent the sludge out for testing but won’t receive the results for several days. “Now, its Memorial Day weekend. Families are headed to the beaches along the Mississippi River. We have no idea how hazardous [the sludge is].”

Sand companies use the chemicals – a proprietary mix including polyacrylamides – to treat sand destined for use in hydraulic fracturing. The sand acts as a proppant to allow oil and natural gas to flow from the well.

For years, I've worked with Mr. Lien and many other constituents on "balloon on a string" shaped annexations that allow cities to avoid county regulations.



The bills I wrote relating to mine operations and annexations never received a hearing. Since 2010, the state made it easier for companies to avoid penalties through the "Green Tier" program.

In the summer of 2017, Hi-Crush applied for exemptions from some state regulations through the "Green Tier" Program. In November, the state approved the application promising "protection from any civil penalties that the DNR might otherwise impose."

Hi-Crush has a history of violations that resulted in penalties. For example, in 2014 the company was fined $52,500 for operating two high capacity wells without required permits according to WKOW. In 2017, the Whitehall site reported 8 worker injuries. According to Chris Hubbach, of the La Crosse Tribune this rate is more than 10 times the national average. The company received 18 fines related to worker safety since 2014.

Hi-Crush Proppants operated facilities in Trempealeau, Jackson, Eau Claire and Monroe Counties. The "Green Tier" regulatory exemptions apply to all of its Wisconsin mines.

"I don't have faith in the system," Kevin Lien concluded. Neither do citizens. And, they are concerned about the consequences. As one woman wrote to me from Eau Claire:

I watched in horror as the events of the recent Hi-Crush breach. It is prime nesting season for waterfowl. …Once the sediment settles and covers the vegetation on the bottom of the River and backwaters, that vegetation will die. The mallards and other bottom-feeding ducks and Canada geese will lose their food supply… fish… will cease as a food source for diving ducks such as mergansers, loons, canvasback, ring-necks, and scaup. Frogs and other crustaceans will suffocate and no longer be a food source for the already declining herons and egrets.

Who truly pays for a poorly regulated industry? The simple answer is: we all do.