

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONS 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 17 2009

REPLY TO THE ATTENTION OF:

VIA FACSIMILE and CERTIFIED MAIL

C-14J

Mr. Daniel Ettinger
Warner Norcross & Judd
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids, Michigan 49503-2487

Re: NHPA Section 106 Review Process

Dear Mr. Ettinger,

We are in receipt of your two letters, both dated February 19, 2009, concerning Kennecott Eagle Minerals Company's UIC permit application and the procedural obligations imposed on EPA under Section 106 of the NHPA. One letter sets forth Kennecott's position that it is not necessary to complete the NHPA process before issuance of a draft UIC permit. The other letter states, among other things, that there has been undue delay in the NHPA process and demands that EPA set a deadline cutting off any further input from KBIC or other interested tribes on NHPA issues. We do not agree that there has been any unnecessary delay in moving forward on NHPA issues in this matter. In addition, we do not believe that NHPA issues have delayed the underlying UIC permitting process in any way. EPA remains committed to reviewing permit applications in a timely manner and ensuring that appropriate decisions are reached.

EPA does not believe it makes sense to now set forth "a hard deadline" for input from any party. Such a deadline right now would not further the Agency's interest in ensuring that we have the most complete record possible and that the most appropriate decision is reached. The Agency remains committed to reviewing all pertinent information as it moves forward with the NHPA process.

We also wish you to know that we are working with all parties, including the Keweenaw Bay Indian Community, to obtain necessary information on historic properties as soon as is possible. During our January 29, 2009 consultation with KBIC, the Region emphasized the

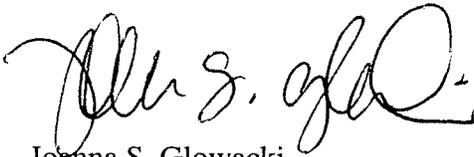
need for KBIC to submit any information regarding Eagle Rock as quickly as possible for consideration under NHPA.

In addition, EPA is required to hear more broadly from the public, and we plan to solicit input from the public on NHPA issues at the time of issuance of a draft UIC decision document. We do want to assure you that we will continue to move this matter forward as expeditiously as possible after carefully considering input from all parties. To be sure, EPA has no intention of delaying this process or allowing any affected parties to distort the process to benefit their own interests.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert L. Thompson
Associate Regional Counsel

A handwritten signature in black ink, appearing to read "Joanna S. Glowacki". The signature is cursive and somewhat stylized, with a large initial "J" and "S".

Joanna S. Glowacki
Associate Regional Counsel