

US EPA ARCHIVE DOCUMENT



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

MAY 5 2009

REPLY TO THE ATTENTION OF:
WU-16J

Warren C. Swartz, Jr.
Tribal President
Keweenaw Bay Indian Community
16429 Beartown Road
Baraga, Michigan 49908

Re: National Historic Preservation Act Section 106 Review
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County, Michigan;
EPA Permit Application Number MI-103-5W20-0002

Dear President Swartz:

During our January 29, 2009 consultation meeting in Chicago about issues related to the proposed Kennecott Eagle mine project, we discussed the National Historic Preservation Act (NHPA) Section 106 review for the project. We understand that the Keweenaw Bay Indian Community (Community) has concerns about the process that the U.S. Environmental Protection Agency is using to ensure compliance with the NHPA. As we previously acknowledged, EPA is aware that it has an obligation to comply with the Section 106 process and is committed to working with all the consulting parties in the review process.

As part of the NHPA discussion, the Community requested additional time to gather further information on the cultural and historic importance of the proposed mine site and prepare a report for EPA within the next season. We agreed that this request was reasonable. We understand that you have concerns about the August 2008 Kennecott Eagle Minerals Company's NHPA Section 106 report and wish to provide EPA with your response.

Although the Community committed to provide EPA with this information, we did not set a deadline for a submittal. While we are not interested in setting an arbitrary deadline, we are interested in seeing that the Section 106 process proceeds at a reasonable pace. We request that the Community make every effort to provide this information to EPA as soon as possible. As we mentioned during our meeting, once the draft permit decision is issued and the public comment period ends, EPA will use information provided to us at that time to make a final permit decision.

In addition, as you complete your NHPA report, we encourage you to identify possible approaches that may resolve potential adverse effects of the proposed project. As you know, if the NHPA Section 106 process results in a finding that there is an eligible traditional cultural property in the project area, we will need to consider mitigation of any adverse effects.

Again, I want to assure you that EPA heard the positions presented by the Community, and we will continue to evaluate the information you have previously provided. We look forward to continuing our consultation with the Community on the NHPA issues and will continue to keep the Community apprised of the preparation of a draft permit decision. If you have any questions or concerns about the permit review process, please feel free to contact me at (312) 886-9296.

Sincerely,



Tinka G. Hyde
Director, Water Division

cc: Summer Cohen (via email)
John Baker (via email)
Chuck Brumleve (via email)