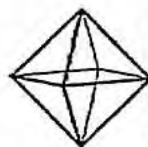


US EPA ARCHIVE DOCUMENT

Appendix D

Consultation Documents

Jonathan C. Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherry@Kennecott.com



**Kennecott
Minerals**

February 7, 2005

Susan LaFermier
KBIC Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

Dear Ms. LaFermier:

Please accept the congratulations of Kennecott Minerals Company (Kennecott) on your recent election as President of the Tribal Council for the Keweenaw Bay Indian Community (KBIC). As the senior representative of Kennecott in the state of Michigan, I am writing to you to request an opportunity to meet with you to discuss issues of mutual interest between KBIC and Kennecott Minerals Company.

I represented Kennecott on the MDEQ work group that drafted the new non-ferrous metallic mining legislation that was recently signed by Governor Granholm. While serving on the work group, I had the opportunity to listen to and work with Todd Warner who was representing KBIC. Although the work group reached unanimous consensus on the draft legislation, it was very apparent to me that KBIC has some lingering cultural and environmental concerns related to non-ferrous metallic mining in the Upper Peninsula.

To better understand the tribe's concerns over the mining legislation, I would like to meet with you in the very near future. Kennecott is committed to learn more about KBIC's Integrated Resources Management Plan vision "To live in harmony while enhancing and sustaining the resources of the Keweenaw Bay Indian Community for the Seventh Generation." I believe Kennecott's views on sustainable development are likely to be in conceptual alignment with the KBIC Seventh Generation vision.

Kennecott and other Rio Tinto owned mining operations in North America have established excellent relationships with a number of Native American Tribes and First Nations. These relationships are based upon mutual respect for each other as people and cultures as well as on a demonstrated respect for the environment. Tribal leaders from these organizations have offered to come to Michigan to meet with you and Kennecott at future meetings to describe these relationships and Kennecott's respect for tribal governance and the environment.

At our first meeting, I would like to continue the process of more fully understanding KBIC's concerns and begin to discuss tribal consultation processes that have successfully incorporated tribal objectives (environmental and cultural) at other Kennecott and Rio Tinto

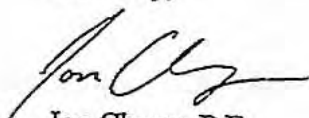
Ms. LaFemier
February 7, 2005
Page 2 of 2

operations. I would also like to share with you many of the social, cultural and business partnerships and agreements that have been entered into with local communities.

As an example, one of our sister operations, the Diavik Diamond Mine (DDMI) in the Northwest Territory of Canada, recently announced it has received national recognition for its work with northern Aboriginal communities. DDMI has been recognized as a leader in Aboriginal relations by reaching the prestigious Gold level of achievement under the Canadian Council for Aboriginal Business (CCAB) Progressive Aboriginal Relations (PAR) program – the highest level of achievement obtainable. Only two other Canadian mines have received this designation and Diavik is the first mine in northern Canada to receive it.

After you have had a chance to consider this request, I will call you to arrange for an informal meeting to discuss the opportunities for learning more about KBIC and Kennecott. If you would like to contact me, I can be reached at the address, phone number or email listed above. I would be pleased to travel from our Marquette office to Baraga to meet with you to begin these discussions. Our Michigan counsel has spoken with your tribal attorney to let him know of Kennecott's desire to begin a dialogue with you and the tribe.

Sincerely,

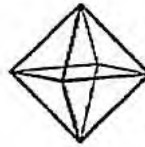


Jon Cherry, P.E.
Manager Environment and
Governmental Affairs

Cc: John Baker – KBIC Tribal Attorney
Todd Warner – KBIC Director of the Dept. of Natural Resources
Adrian Jackman – CEO, Kennecott Minerals Company
Gene Smary – Warner Norcross & Judd LLP

Jonathan C. Cherry, P.E.

Manager Environment and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



**Kennecott
Minerals**

April 1, 2005

Ms. Susan LaFerner
KBIC Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

Re: KBIC Meeting with Kennecott Minerals Company on March 22, 2005

Dear President LaFerner:

I wanted to thank you again for taking the time to meet with Alicia Duex and me last week regarding Kennecott Minerals' interests in exploration and mine development in the Upper Peninsula. I was very pleased to learn that Kennecott Minerals' sustainable development concepts are in alignment with the Seventh Generation approach used by KBIC. I am specifically referring to the concept where we both agreed that activities from the current generation should not become a burden to future generations. It is the responsibility of the current generation to provide future generations with an environment that is as good as or better than the one today. I assure you that this is consistent with the approach that Kennecott Minerals takes at all of our operations.

During the meeting we discussed a wide range of issues. I understand that no decisions were made during the meeting; however I am very encouraged that we will continue dialogue on issues of common interest. The meeting was for informational purposes and to establish a line of communication between KBIC and Kennecott Minerals. There were several issues that were left open for further consideration by KBIC. In no particular order, I have listed those issues that I understood KBIC was going to consider for further discussion with Kennecott Minerals at a future meeting.

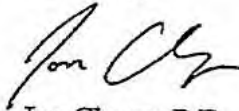
- Kennecott Minerals offered to bring to Michigan Aboriginal and Native American leaders that live adjacent to our mining operations in Canada and Alaska to discuss how these mines have interfaced with these tribes. Conversely, an offer was extended to arrange for a site tour and onsite meeting with these same leaders in Alaska or Canada.
- KBIC indicated that there are several historic abandoned mining sites within the KBIC community that need to be cleaned up. Kennecott Minerals offered to provide some technical assistance regarding how some of these sites might be remediated.

- Kennecott Minerals controls some private and state mineral rights within the KBIC Reservation and would like to pursue exploration activities at one or two of these sites this summer. KBIC agreed to consider how this could be done in a way that would provide a level of comfort related to environmental protection. On this project, KBIC was going to consider if there were any tribal members that would benefit from working on such a project to develop vocational and/or technical skills.
- The KBIC seat on the Community Advisory Group for Kennecott Minerals' Eagle Project is still open. KBIC agreed to consider whether a representative would attend future Community Advisory Group meetings.
- In an effort to establish better communication between KBIC and Kennecott Minerals it was suggested that we meet on a monthly basis. The purpose would be to provide KBIC with updates related to the Eagle Project and exploration activities within the KBIC community. KBIC agreed to consider this suggestion as well.

If my perception of the meeting does not accurately match your understanding, please let me know. I look forward to meeting with you again in the near future to discuss these ideas in more detail. In a few weeks, after you have had a chance to think about our meeting and consider the issues outlined above, I will call you to schedule another meeting for late April.

Thank you again for your willingness to sit down with me and have a meaningful discussion about our mutual interests.

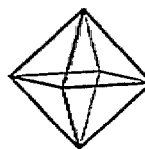
Sincerely,



Jon Cherry, P.E.
Manager Environment and
Governmental Affairs

Cc: John Baker – KBIC Tribal Attorney
Todd Warner – KBIC Director of the Dept. of Natural Resources
Adrian Jackman – CEO, Kennecott Minerals Company

Jonathan C. Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hills Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



**Kennecott
Minerals**

April 20, 2005

Ms. Susan LaFermier -Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Rd.
Baraga, MI 49908

Re: Eagle Project — Community Advisory Group Invitation

Dear Ms. LaFermier:

Kennecott Minerals Company (KMC) has formed a Community Advisory Group (CAG) related to the Eagle Project - a small, but valuable mineral resource the company is currently evaluating to develop as an underground nickel/copper mine. The purpose of the CAG is to provide a forum in which representatives from a cross section of the community can voice ideas, concerns, support and advice associated with the potential development of a mine on the Yellow Dog Plains by KMC. We would like to invite your organization to be represented on the CAG, and are extending this letter of invitation with the hope that you will appoint a representative.

For your background, the Charter for the CAG is enclosed and describes the purposes, procedures and expectations of the group. Also included is the invitation for the third community advisory group and the associated agenda.

This invitation has been extended to a handful of organizations and entities that represent a wide cross section of the community. We have requested that each organization select one individual to represent their respective organization's interests. The organizations that have agreed to participate in the CAG include:

- Michigamme and Powell Townships
- Marquette County
- City of Marquette
- Michigan United Conservation Clubs
- Trout Unlimited
- Central Lake Superior Watershed Partnership
- National Wildlife Federation
- Lake Superior Community Partnership
- Michigan Technological University
- Northern Michigan University
- Department of Environmental Quality
- U.P. Construction Council

The meetings are hosted and chaired by KMC and are facilitated by Mr. Bill Rustem. Mr. Rustem has extensive experience in working with diverse groups to meet common objectives. Most recently, he served as the principal staff to the Bipartisan Land Use Leadership Council, a group appointed by Governor Granholm and legislative leaders to develop recommendations related to

improving cities and protecting farmland and open space. He has also served on behalf of the State of Michigan on numerous task forces and commissions, including those dealing with groundwater, reorganization of various departments of state government, and wetland protection.

We value the input your organization can bring, and sincerely hope your organization will participate in the CAG. Please respond to me via email (cherryj@kennecott.com) or at the address listed on the letterhead. Include the name and contact information for the individual that you have selected to represent your organization.

If you have any questions about the CAG, its Charter or this invitation, please contact me as indicated above.

Sincerely,



Jonathan C. Cherry, P.E.
Manager Environment and
Governmental Affairs

Attachments (3)

Jonathan C. Cherry, P.E.
Manager Environmental and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hills Drive
Suite 103
Marquette, Michigan 49856
Phone: 906-225-5791
Email: Cherry@Kennecott.com



April 20, 2005

Ms. Susan LaFrenier
KBIC Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, MI 49908

Re: Community Advisory Group (CAG) Meeting - May 2005

Dear CAG Member:

At the last CAG meeting in January, the group collectively decided that the next meeting was going to occur on May 2, 2005 and the topics of interest focused on engineering design and materials that would be used for water management and containment systems. It was also suggested that a site tour be arranged for the CAG to become more familiar with the site. Based on these suggestions, the next CAG meeting has been scheduled for May 2, 2005 beginning at 12:30 pm and will involve a site tour of the Eagle Project.

In order to get everyone out to the site and be back into town by 5:00 I am making arrangements to have two 15 passenger vans available to transport the CAG to the site and back. Please plan on meeting in the parking lot adjacent to Cram's convenience store along county road 550. Cram's is located just before you get to Big Bay on the west side of the road. It is about a 20 to 25 minute drive north from Marquette. I would like to ask the CAG members to be ready to leave the parking lot by 12:30 and be prepared for inclement weather as the tour will proceed rain or shine. My goal is to have everyone back to the parking lot no later than 4:30. During the site tour we will have a presentation and discussion regarding engineering designs and containment systems and materials.

I would appreciate if you could RSVP to me no later than April 27, 2005 so I can make the necessary logistical arrangements for the tour. If you have any questions or concerns, please call me or email at the number and address listed above.

Sincerely,

Jonathan C. Cherry, P.E.
Manager Environment and
Governmental Affairs

Attachment

Cc: Mr. Bill Rustem, Public Sector Consultants
Mr. Fred Fox, Kennecott Minerals
Mr. Matt Johnson, Office of Governor J. Granholm



EAGLE PROJECT – COMMUNITY ADVISORY GROUP

MEETING DATE May 2, 2005

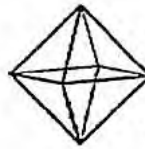
Time 12:30 p.m.

Eagle Project Site Tour

MEETING No.3 – AGENDA

TOPIC	LEAD	TIME
1. Rendezvous at Cram's Parking Lot (see invitation letter for directions)	Cherry / Rustem	12:30 pm
2. Leave for Eagle site tour	Jon Cherry	12:30 pm
3. Arrive at Eagle site	Jon Cherry	1:00 pm
4. Safety Orientation/break/stretch	Jon Cherry	1:00 pm (5mins)
5. Begin site tour Bedrock outcrop Surface facilities location Discussion of engineering design and containment systems Weather station Ore body location Salmon Trout River	Jon Cherry	1:15 pm
6. CAG Discussion Topics for next meeting Action Items Next meeting	Bill Rustem	3:30 pm
7. Leave for Cram's Parking Lot	Jon Cherry	4:00 (no later than)
8. Arrive at Cram's - Adjourn	Jon Cherry	4:30 pm

Jonathan C. Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



**Kennecott
Minerals**

June 10, 2005

Ms. Susan LaFermier
KBIC Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

REGISTERED MAIL

Re: KBIC Meeting with Kennecott Minerals Company on March 22, 2005

Dear Ms. LaFermier:

Over the last several weeks I have attempted to contact you several times, but unfortunately was unsuccessful. I would like to set up another meeting with you to discuss those items we agreed to consider at our last meeting on March 22, 2005. Since I have not been able to contact you in person, I wanted to send this letter to arrange for another meeting.

I also wanted to inform you of Kennecott's plans to proceed with exploration activities that were the subject of your letter to Andrew Ware dated June 18, 2004. Over the next three or four months, Kennecott plans to drill less than 10 exploration holes on privately owned ground located within the Tribe's reservation. This property will be accessed from public roads and private land and will not involve any tribal property as described in your June 18 letter. I have also confirmed that a permit for this type of exploration is not required from the State or EPA.

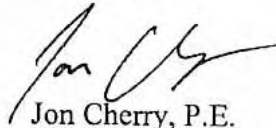
Please be assured, respect for the environment is foremost in all of our exploration activities. The exploration work that will be undertaken will be of minimal impact. Less than one acre of surface land will be disturbed during the preparation of a drill pad. During drilling activities, all water will be contained in tanks and will be transported off site for treatment, recycle or disposal. Any cuttings generated during the exploration activities will likewise be contained and transported to an off site disposal facility. Upon completion of exploration activities, which are estimated to take approximately 20 days, the site will be reclaimed.

I would like to discuss with you my previous offer to train a few KBIC college-age students that may have an interest in the environment, geology or related natural sciences. I would be willing to put them to work and give them hands on experience during the planned exploration activities. We have instituted a similar program on the San Carlos Indian Reservation with great success.

President LaFerner
June 10, 2005
Page 2 of 2

Please contact me at your earliest convenience to set up another meeting and continue the open line of communication we established at our last meeting. I appreciate the dialogue we have established and look forward to continuing the conversation.

Sincerely,



Jon Cherry, P.E.
Manager Environment and
Governmental Affairs

Cc: John Baker – KBIC Tribal Attorney
Todd Warner – KBIC Director of the Dept. of Natural Resources
Adrian Jackman – CEO, Kennecott Minerals Company
Gene Smary – Warner Norcross & Judd

KEWEENAW BAY INDIAN COMMUNITY

Keweenaw Bay Tribal Center
107 Beartown Road
Baraga, Michigan 49908
Phone (906) 353-6623
Fax (906) 353-7540

2005 TRIBAL COUNCIL

SUSAN J. LAFERNIER, President
WARREN C. SWARTZ, JR., Vice-President
LARRY J. DENOMIE III, Secretary
GARY F. LOONSFOT, SR., Asst. Secretary
JENNIFER MISEGAN, Treasurer

DOREEN G. BLAKER
FRED DAKOTA
WILLIAM E. EMERY
MICHAEL F. LAFERNIER, SR.
ELIZABETH D. MAYO
ANN MISEGAN
SEAWANUNG

June 24, 2005

Jon Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, MI 49855

Dear Mr. Cherry:

This is in response to your letter dated June 10, 2005 regarding another meeting with the Community. I apologize for the time it has taken to respond to your calls and letter. At this time I do not feel that another meeting would be productive.

I am disappointed to hear of your plans to proceed with exploration activities on privately owned land located on our Reservation. Our position has not changed since the Community's June 18, 2004 letter to Mr. Andrew Ware. Please be advised that there will be "No Entrance Without Permission" on property owned by the Keweenaw Bay Indian Community. Trespassing on Tribal lands within the L'Anse Indian Reservation is a violation of federal law (18 U.S.C. 13) and may be punishable by a fine and imprisonment.

I believe you are aware of our numerous concerns on mining as stated in our Resolution KB-1301-2004, our press release issued regarding the legislation, and our verbal and written comments on the proposed rules under Part 632. We have stated that we wish to preserve our Homeland and our rights within the Ceded Territory (land, water, and natural resources) for the next seven generations and yet there are no provisions in the rules restricting the impact that the proposed mining would have on Tribal traditional and cultural resources and values. We also have major concerns about long-term ground water and surface water quality protections that have not been addressed by the legislation or the rules.

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

I will contact you in the future if the Community feels that further discussions may become productive.

Sincerely,

Susan J. LaFermier

Susan J. LaFermier,
Tribal Council President

cc: J.Baker, Tribal Attorney
T. Warner, Director Natural Resources Dept.

June 24, 2005

The Honorable Jennifer Granholm
Governor of the State of Michigan
George W. Romney Bldg.
111 S. Capital Ave
Lansing, Michigan 48909

Re: Sulfide Mining Rules

Dear Governor Granholm,

For the last several months members of a workgroup have been working with the Michigan Department of Environmental Quality ("MDEQ") to develop rules to implement 2004 PA 449, the Sulfide Mining Act. After serious consideration of the provisions of the Sulfide Mining Act and the rules that have been proposed to date by the workgroup ("Rules"), the Keweenaw Bay Indian Community ("Community") remains unconvinced that technology and practice have advanced to the point where sulfide mining can be effectively performed in Michigan without substantial and long-lasting degradation of the environment and adverse impacts to human health.

As you are aware from previous correspondence from me, the Community is very concerned about the possibility of mining within the L'Anse Reservation boundaries and within the ceded territories, including the Yellow Dog Plains. This area is the homeland of the Community and the treaties entered into by its predecessors preserved for the Community a homeland and the rights to hunt, fish and gather in this area, rights which we wish to preserve and protect for at least the next seven generations.

The Community agreed to participate with the workgroup in the hope that, by incorporating effective and thorough science and procedural protections into the rules and assisting in the development of stringent regulatory oversight mechanisms, degradation to the environment and risks to human health likely to result from sulfide mining would be prevented. After reviewing the final draft of the Rules as presented to the workgroup by MDEQ, the Community believes that this goal will not be accomplished. Described in detail on Attachment I are numerous issues and deficiencies in the Rules which the Community and other members of the workgroup believe require, at a minimum, additional consideration and resolution by the workgroup.

June 24, 2005

Furthermore, the Community believes that insufficient time has been spent developing permitting process procedural protections, and regulatory oversight mechanisms for sulfide mining in the State of Michigan. The time frame for developing the Rules appears to have been set to suit the requirements of the mining industry, as opposed to ensuring that all relevant issues were examined with the thoroughness required to guarantee protection of human health and the environment as the key consideration in the determination to grant or deny a Part 632 permit. As the Sulfide Mining Act and Rules currently stand, they essentially constitute a permitting road map on "how" to obtain a permit. The basic consideration of whether sulfide mining is an activity that can be performed in Michigan without degrading the environment or threatening human health is, and has been, absent from the discussions. While the short term gain to the State of Michigan from rents and royalties from the mining companies may seem to justify accelerating this process, those gains will be far outweighed by the long-term and severe damage to natural resources, the environment and the Community's and general public's right to enjoy those resources that will be caused by sulfide mining in the Upper Peninsula.

The May 12, 2004 Intergovernmental Accord between the Federally Recognized Indian Tribes of the State of Michigan and the Governor of the State of Michigan, recognized the essential role of the Great Lakes and Michigan's inland lakes, rivers, streams, and groundwater in the past, present, and future destiny of both the State of Michigan and Tribal Nations within the State of Michigan. The Intergovernmental Accord further recognized the Great Lakes and inland waters as Michigan's most vital resource and the critical role they play in the well being of all residents of the State. Sulfide mining and water are not compatible. This is well known and an established fact in virtually every state that has had sulfide mining. The water that surrounds and exists within the boundaries of the Upper Peninsula of Michigan is essential to the Upper Peninsula's economy, its environment, and the well-being of its inhabitants, and the natural beauty of the Upper Peninsula is dependent upon maintaining the high quality of those waters. While an exploration or mining company may have legal rights to the minerals present, they do not have the right to degrade or destroy the environment and natural resources in the process of extracting those minerals. The legacy of sulfide mining is, and will continue to be, one that primarily consists of water resource degradation and destruction, and the associated degradation and destruction of natural resources and ecosystems that depend upon the waters. This is not a legacy for us, as leaders of our respective governments, to leave for future generations to suffer and endure. Accordingly, we request that you direct MDEQ to modify the Rules to address and resolve the issues and deficiencies in the Rules outlined on Attachment I.

Sincerely,

Susan LaFermier
President

Attachment
cc w/attachment:
Hal Fitch, Chief, Geological and Land Management Division
Stanley Pruss, Deputy Director
Mark Matus, Department of Attorney General

From: "Summer Cohen" <scohen@kbic-nsn.gov>
To: "John Halsey" <JohnH@michigan.gov>
Date: 5/10/2006 8:55:56 AM
Subject: Traditional Cultural Property Report: T50N, R28 and 29W in Michigamme Township

Dear Mr. Halsey;

The Keweenaw Bay Indian Community Tribal Historic Preservation Office in an effort to preserve historic, cultural and archaeological sites is informing the Michigan State Historic Preservation Office and Michigan State Archaeologist that there are Traditional Cultural Properties documented in the Michigamme area consisting of traditional gathering areas for medicines and traditional sites for ceremonial purposes most of which are currently still in use. The property is generally located within the following coordinates: T50N, R28 and 29W in Michigamme Township, Marquette County, Michigan.

Please let me know if more specific information is required at this time.

Thank you for supporting the efforts of the Keweenaw Bay Indian Community in preserving and promoting the traditions and cultural activities of the Ojibwa People.

Miigwech,

Summer Cohen

Summer Sky Cohen, Officer

Keweenaw Bay Indian Community

Tribal Historic Preservation Office

107 Beartown Road

Baraga, Michigan 49908

906-353-6272

fax 906-353-6869

Update: new email scohen@kbic-nsn.gov

CC: <grennellb@michigan.gov>, "Barbara Mead" <barbaram@michigan.gov>

From: Barbara Mead
To: Cohen, Summer
Date: 5/10/2006 10:30:08 AM
Subject: Re: Traditional Cultural Property Report: T50N, R28 and 29W in Michigamme Township

Summer -

Thank you for letting us know about the traditional cultural properties in these two townships. I've forwarded your message to Dean Anderson of our staff. Since I last talked to you, I found out that Dean's gotten notification from DEQ (Mich Dept of Environmental Quality) about the Kennecot project. Dean is currently trying to find out if this is a Sec. 106 (federal) review, or just a state review; the review requirements are different. The SHPO apparently has not yet received anything about this project for review.

If you haven't already done this, you should send your comments on tribal letterhead to the mining company and to the DEQ. They will want to know what specific areas are of concern, and if there are adjacent areas where they could proceed without disturbing the TCPs. Based on our experience, most companies are willing to avoid small areas of concern by moving some proposed construction slightly (say a few hundred feet), but usually they are less helpful if their entire project area is being flagged as being of concern.

You can call Dean at 517/373-1618, or e-mail him at deana@michigan.gov.

Barb

Barbara Mead, Asst. State Archaeologist
Michigan Historical Center, Box 30740, Lansing MI 48909-8240
517/373-6416, barbaram@michigan.gov, www.michigan.gov/archaeology

Celebrate National Historic Preservation Month by buying a "Save Our Lights" license plate. Find out how when you discover your connections at www.michiganhistory.org.

at www.michiganhistory.org

>>> "Summer Cohen" <scohen@kbic-nsn.gov> 5/10/2006 8:54 AM >>>

Dear Mr. Halsey, The Keweenaw Bay Indian Community Tribal Historic Preservation Office in an effort to preserve historic, cultural and archaeological sites is informing the Michigan State Historic Preservation Office and Michigan State Archaeologist that there are Traditional Cultural Properties documented in the Michigamme area consisting of traditional gathering areas for medicines and traditional sites for ceremonial purposes most of which are currently still in use. The property is generally located within the following coordinates: T50N, R28 and 29W in Michigamme Township, Marquette County, Michigan. Please let me know if more specific information is required at this time. Thank you for supporting the efforts of the Keweenaw Bay Indian Community in preserving and promoting the traditions and cultural activities of the Ojibwa People. Miigwech, Summer Cohen Summer Sky Cohen, Officer Keweenaw Bay Indian Community Tribal Historic Preservation Office 107 Beartown Road Baraga, Michigan 49908 906-353-6272 fax 906-353-6869 Update: new email scohen@kbic-nsn.gov



State of Michigan
Jennifer Granholm, Governor

Department of History, Arts and Libraries
Dr. William M. Anderson, Director

Office of the State Archaeologist

Michigan Historical Center
702 west Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909-8240
517/373-6358

May 10, 2006

Joe Maki
UP District Geologist
Michigan DEQ
Office of Geological Survey

Dear Mr. Maki,

I have received your request for review of the potential impact upon archaeological resources of the proposed Kennecott Eagle Mining Project in Marquette County. You provided three documents relevant to this review:

1. Kennecott Eagle Minerals, Eagle Project, Mining Permit Application, Vol. II, Environmental Impact Assessment, February, 2006;
2. Phase I Archaeology Survey of Ca. 73 Acres for Kennecott Minerals Company, Eagle Project, Marquette County, Michigan, September, 2005, prepared by BHE Environmental, Inc.
3. Memorandum on Archaeological Survey, January 30, 2006, BHE Environmental, Inc.

The Phase I archaeological survey was conducted by BHE Environmental Inc. during June of 2004, and July of 2005. A total of 73 acres, representing the area within which ground disturbance will take place, was surveyed. No archaeological sites were identified within the 73-acre survey area. In addition, a less formal examination of the 199-acre project area was conducted. This resulted in the identification of three archaeological sites:

20MQ228 – 3 lithic flakes found in a roadbed;

20MQ229 – 20th century logging camp;

20MQ230 – 20th century logging camp.

All three of these sites are outside of the construction footprint for the project, and will be avoided to insure that they are not disturbed.

After the completion of the archaeological survey, the configuration of the proposed construction footprint was altered to include approximately 20 additional acres. Consequently, BHE Environmental Inc. prepared a memorandum in which they stated that, given the negative results of the 73-acre survey, it is probable that no sites would be found in the contiguous additional acreage. In light of the environmental characteristics of the general project area, we agree that it

is unlikely that additional archaeological sites are present in the 20 acres added to the construction footprint.

In summary, based upon the results of the Phase I archaeological survey, it is the opinion of the Office of the State Archaeologist that the project will not affect archaeological resources within the proposed construction footprint. Further, we support the decision to avoid and preserve sites 20MQ228, 229, and 230.

If you have additional questions, please do not hesitate to contact me at (517) 373-1618, or by email at DeanA@michigan.gov.

Sincerely,

A handwritten signature in cursive script that reads "Dean L. Anderson". The signature is written in dark ink and is positioned above the typed name.

Dean L. Anderson
Historical Archaeologist

From: "Cherry, Jon (KMC)" <Jon.Cherry@riotinto.com>
To: <DeanA@michigan.gov>
Date: 1/18/2007 5:06:01 PM
Subject: Kennecott - Review of Site Sheet

Dean,

This email is to confirm our conversation from Friday January 5, 2006. Kennecott's archeological consultant, Dr. Chris Bergman (URS Corporation) and I have reviewed the field sheet provided to you by Mr. Paquette regarding the potential "cultural pit" that was discovered at Kennecott's project site. From the photos and descriptions provided, neither of us can determine the exact nature of the feature described. The photos and dimensions provided appear to be similar to one of the hundreds of test pits that Dr. Bergman analyzed during his two site investigations which included this area.

As we discussed, Kennecott has agreed to have Dr. Bergman return to the site in the spring when the snow is gone and the ground is thawed to conduct a proper review of the item in question. Kennecott has no immediate plans that will affect this site until it can be further investigated.

Thank you for your cooperation in this matter. Please contact me if you need any additional information in the interim.

Jon

Jon Cherry, P.E.

Manager of Environment and

Governmental Affairs

Kennecott Minerals Company

1004 Harbor Hills Dr, Suite 103

Marquette, Michigan 49855

Phone: 906-225-5791 ext. 205

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From: Dean Anderson
To: Jon (KMC) Cherry
Date: 1/19/2007 9:15:10 AM
Subject: Re: Kennecott - Review of Site Sheet

Jon,

Thank you for your message. I agree that this is a prudent and responsible means of handling the feature reported by Mr. Paquette. I could not reach what I would consider to be a reasonable conclusion about the origin or the function of the feature based on the photos and description provided. Further, I believe it will require a field visit to assess the context of the feature, and evaluate its significance. As you pointed out, Kennecott has no immediate plans to conduct work that could affect the feature; consequently, we agree that it would be best to conduct the investigation of the feature in the spring after the snow is gone and the ground has thawed.

As I mentioned in our conversation, based on our review of their report, we believe that Dr. Bergman and BHE did a thorough job of surveying the project area. I suggest that we touch base as spring approaches, and discuss specific plans for the investigation of the feature.

If you, or Chris, have any other questions, please do not hesitate to contact me.

Dean

Dean L. Anderson, Historical Archaeologist
Michigan Historical Center
Box 30740
702 West Kalamazoo Street
Lansing, MI 48909-8240
E-mail: deana@michigan.gov
Phone: (517) 373-1618
Fax: (517) 241-4738

Celebrate the 50th birthday of the Mackinac Bridge at the Michigan Historical Museum, January 27. Find out more when you discover your connections at www.michiganhistory.org.

>>> "Cherry, Jon (KMC)" <Jon.Cherry@riotinto.com> 1/18/2007 5:05 PM >>>
Dean,

This email is to confirm our conversation from Friday January 5, 2006. Kennecott's archeological consultant, Dr. Chris Bergman (URS Corporation) and I have reviewed the field sheet provided to you by Mr. Paquette regarding the potential "cultural pit" that was discovered at Kennecott's project site. From the photos and descriptions provided, neither of us can determine the exact nature of the feature described. The photos and dimensions provided appear to be similar to one of the hundreds of test pits that Dr. Bergman analyzed during his two site investigations which included this area.

As we discussed, Kennecott has agreed to have Dr. Bergman return to the

site in the spring when the snow is gone and the ground is thawed to conduct a proper review of the item in question. Kennecott has no immediate plans that will affect this site until it can be further investigated.

Thank you for your cooperation in this matter. Please contact me if you need any additional information in the interim.

Jon

Jon Cherry, P.E.

Manager of Environment and

Governmental Affairs

Kennecott Minerals Company

1004 Harbor Hills Dr, Suite 103

Marquette, Michigan 49855

Phone: 906-225-5791 ext. 205

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From: Barbara Mead
To: Cohen, Summer
Date: 2/16/2007 2:57:17 PM
Subject: Re: site # 20MQ251

The state site file is an inventory of all archaeological sites over 50 years old. Having a state site number assigned does not confer any special protection, except that it means we know about the site and can consider it when making management decisions.

Only the most significant sites are eligible for listing on the National Register. This is a small percentage of all existing sites. For archaeological sites, its been about 15%.

The Section 106 process involves several stages. First is inventory. A survey is done to identify any existing cultural resources. The second step is evaluation, or deciding which, if any, of the sites found during inventory meets the criteria for listing on the National Register. This sometimes requires an additional study to compile the details necessary to make a decision, and to define the boundaries of the site. If a site is considered by the SHPO or Keeper of the National Register, or by a THPO for sites on tribal lands, to be eligible for the National Register, the federal agency then has to consider steps to mitigate the effect of the project on the eligible site.

The site does not have to be actually listed on the National Register for this protection. In practice, people very seldom go through all the rig-a-ma-role of actually listing a site on the National Register, since it doesn't make much difference as far as Section 106 goes. Also, listing a site on the National Register requires the property owner's permission, while determining a site to be eligible does not require landowner permission.

"Mitigation" usually ends up being avoidance; in other words, steps are taken to avoid damaging the site as the project proceeds. If the site cannot be avoided, then it is usually documented in some way prior to being destroyed. It is very, very rare for a project to be cancelled just because a cultural resource is involved.

Right now, 20MQ251 is just at the inventory stage. Based on information available to us right now, it does not appear to meet the criteria for listing on the National Register. However, as I understand it, the mining company has arranged for this site to be studied and evaluated anyway, just to be on the safe side. This work will be done by someone who meets federal professional qualifications for archaeologists, who is familiar with a wide range of site types and with the National Register criteria. (Although Mr. Paquette has learned something about archaeology in pursuit of his hobby, he is not a professional archaeologist and does not meet the federal qualifications.)

If the tribe believes this site is significant, it would be very helpful to share the reasons and evidence for this view with us so that this can be taken into account. As THPO, you can make your own evaluation as well. Your opinion is important; your sources of information and your knowledge of tribal values give you a unique perspective.

There are a number of NPS bulletins that address issues of eligibility and evaluation. Bulletin 36 addresses archaeological properties, and #38 traditional cultural properties. They are available on the NPS web site (www.cr.nps.gov/nr/publications/bulletins). The NPS bulletins also outline the procedures for listing a site on the National Register. You can also download National Register nomination forms. If you'd like to nominate a site, I believe you can either submit a nomination to the SHPO, or submit it directly to the Keeper at NPS.

Let me know if there is anything else I can help you with. Dean Anderson of our staff is handling the Kennecott project. You can reach him at deana@michigan.gov or 517/373-1618 for more details on how things are proceeding.

Barb

Barbara Mead, Asst. State Archaeologist
Michigan Historical Center, Box 30740, Lansing MI 48909-8240
517/373-6416, barbaram@michigan.gov, www.michigan.gov/archaeology

Discover your connections to Working America: Photographs from the Ewing Galloway Agency -- a new special exhibit, February 1 through June 17, at the Michigan Historical Museum, www.michiganhistory.org.

>>> "Summer Cohen" <scohen@kbic-nsn.gov> 2/16/2007 12:15 PM >>>

Barb, I was hoping you could fill me in on the National Register Process regarding the site 20MQ251 which was registered by Jim Paquette December 06. From what I understand, this is a State ID Number, what needs to be done to have this site listed on the National Register? What protections does it have now that it has a site number from the state, if it were to fall under NHPA?

I hope you can clarify this for me.

Thanks,

Summer

Summer Sky Cohen, THPO/NAGPRA

Keweenaw Bay Indian Community

Tribal Historic Preservation Office

16429 Beartown Road

Baraga, Michigan 49908

906-353-6272

Fax 906-353-6869

Email scohen@kbic-nsn.gov

CC: Anderson, Dean

From: Dean Anderson
To: Jon (KMC) Cherry
Date: 4/16/2007 4:29:45 PM
Subject: Eagle Rock

Jon,

Our office has recently received more information from Summer Cohen (Keweenaw Bay Band) about the Eagle Rock location. If Chris Bergman has not yet gone out to Eagle Rock to investigate the area, it would be useful if we could talk to him before that happens. It might be, in fact, that we will want to reconsider whether further archaeological investigation should be done.

You can call either me or Barbara Mead to discuss this. Barb has been in direct contact with Summer, and is in a better position to give you a first-hand account of the information Summer has passed along to our office. Barb's phone number is (517) 373-6416. Her email address is Barbaram@michigan.gov.

Contact information for me is below.

Thanks!

Dean

Dean L. Anderson, Historical Archaeologist
Michigan Historical Center
Box 30740
702 West Kalamazoo Street
Lansing, MI 48909-8240
E-mail: deana@michigan.gov
Phone: (517) 373-1618
Fax: (517) 241-4738

Educating local government agencies with Records Management Workshops on May 9th and May 16.
Discover your connections at: www.michiganhistory.org.

CC: Barbara Mead

From: "Summer Cohen" <scohen@kbic-nsn.gov>
To: "Barbara Mead" <barbaram@michigan.gov>
Date: 4/19/2007 10:53:45 AM
Subject: RE: TCP at 20MQ2511

No, that would not be a good idea right now. I have to discuss the information you gave me with others before Mr. Cherry or Kennecott is contacted.

Thank you for asking.
Summer

Summer Sky Cohen, THPO/NAGPRA
Keweenaw Bay Indian Community
Tribal Historic Preservation Office
16429 Beartown Road
Baraga, Michigan 49908
906-353-6272
Fax 906-353-6869
Email scohen@kbic-nsn.gov

—Original Message—

From: Barbara Mead [mailto:barbaram@michigan.gov]
Sent: Thursday, April 19, 2007 10:46 AM
To: Summer Cohen
Subject: Re: TCP at 20MQ2511

Would it be ok for me to forward your message to Jon Cherry of Kennecott?

Barb

Barbara Mead, Asst. State Archaeologist
Michigan Historical Center, Box 30740, Lansing MI 48909-8240
517/373-6416, barbaram@michigan.gov, www.michigan.gov/archaeology

Educating local government agencies with Records Management Workshops on May 9th and May 16. Discover your connections at www.michiganhistory.org

>>> "Summer Cohen" <scohen@kbic-nsn.gov> 4/11/2007 11:00 AM >>>

Barb;

I have thought about this site and discussed the situation with several people. It is located at the following coordinates-Marquette County, Michiganme Township, T50N, R29W, SW1/4 of the NW1/4 of Section 12. Most commonly referred to by people up here as "Eagle Rock" or ground zero of Kennecotts proposed "eagle mine". Also registered by Jim Paquette as an

archaeological site and referred to as 20MQ251.

This area has been used in the past, and is still used today for various cultural and ceremonial purposes. In fact, just last fall, a group of people, Tribal members, were conducting a traditional fall fast while people from Kennecott were busy cutting down trees and spray painting around them. I would like to see this site classified as archaeological historical and TCP.

If this is possible, please let me know what kind of information you will need to document this. If necessary, as you have requested Kennecott to have the archaeological site reevaluated, I would like to see a cultural anthropologist, preferably someone that both the Tribe and Kennecott if necessary, agrees with, to do the documentation for the TCP rather than an archaeologist.

Sincerely,

Summer Cohen

Summer Sky Cohen, THPO/NAGPRA

Keweenaw Bay Indian Community

Tribal Historic Preservation Office

16429 Beartown Road

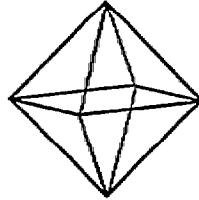
Baraga, Michigan 49908

906-353-6272

Fax 906-353-6869

Email scohen@kbic-nsn.gov

Jonathan C. Cherry, P.E.
Project Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



Kennecott

Eagle Minerals

May 21, 2007

Ms. Summer Cohen
Tribal Historic Preservation Officer
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

REGISTERED MAIL

Re: Kennecott Minerals – Eagle Site Investigation

Dear Ms. Cohen:

Earlier this year I received a copy of a Michigan Archeological Site Form that was completed by Mr. James R. Paquette on December 9, 2006. The form provided a description of a depression in a bedrock outcrop located on the Yellow Dog plains that might be of potential archeological significance. The form indicated that as KBIC Historic Preservation Officer, you were present when the information was collected; hence my desire to reach out to you.

As you are aware of, Kennecott Minerals has been conducting extensive baseline surveys, including detailed archeological surveys, in this particular area for over two years in preparation for a local mining operation. Consequently, Mr. Paquette's communication brings new information at this time. I contacted Mr. Dean Anderson, Historical Archaeologist for the State of Michigan Historical Center to discuss Mr. Paquette's information, as well as recommendations to further address potential archeological aspects of the outcrop beyond the work previously conducted.

While the State has not required an additional site archeological investigation, Kennecott offered to complete an additional professional site investigation with a registered Ph.D. archeologist once the snow had melted and the site became accessible this spring.

The snow is now gone from the area and the bedrock outcrop is accessible. I am currently scheduling the site investigation mentioned above within the next two weeks and I would like to extend an invitation for you to attend. I would also appreciate an opportunity to talk with you in advance of this fieldwork to discuss any ideas, questions or concerns you may have that should be considered in preparation for this additional survey.

Ms. Summer Cohen
May 21, 2007
Page 2 of 2

In the past, I have met with KBIC leaders, and invited KBIC to be part of the Community Advisory Group related to the Eagle Project. Unfortunately, KBIC at that time declined additional communication with Kennecott Minerals or participation in the Community Advisory Group. This invitation remains open should KBIC wish to participate. I would also like to present this site archeological review as an opportunity to renew dialogue between KBIC and Kennecott Minerals such that issues of importance to both KBIC and Kennecott can be addressed mutually and productively.

Please feel free to contact me by phone, email or letter at the number or addresses listed at the top of this letter. I look forward to hearing from you and hope that this may be an opportunity for us to work together.

Sincerely,



Jonathan C. Cherry, P.E.
Project Manager

Cc: Ms. Susan LaFornier, KBIC Tribal President
Mr. David Salisbury, President and CEO Kennecott Minerals Company
Mr. Chris Bergman, Ph.D., RPA, Principal Archeologist, URS Corporation
Mr. Dean Anderson, Historical Archaeologist, State of Michigan Historical Center
Mr. Gene Smary, Warner Norcross & Judd

KEWEENAW BAY INDIAN COMMUNITY

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16429 Beartown Road
Baraga, Michigan 49908
Phone (906) 353-6623
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ELIZABETH D. MAYO

Jonathan C. Cherry, P.E.
Project Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive, Suite 103
Marquette, Michigan 49855

June 5, 2007

Dear Mr. Cherry,

The Keweenaw Bay Indian Community Tribal Historic Preservation Office acknowledges receipt of your correspondence dated May 21, 2007, regarding Kennecott's proposed archeological investigation on the Yellow Dog Plains bedrock outcrop. The site has been the location of tribal cultural activities and the Community is very concerned that the mining operations will destroy this invaluable cultural site.

Regarding your archeological investigation, please provide us with the details about the proposed field work, the permit(s) obtained, the estimated time it will take to perform the field tasks, the dates that you plan to do the work and the specific qualifications of your survey team.

The stated investigation schedule of "...within the next two weeks..." will be difficult for us to accommodate because the Community intends to participate in the investigations that you have referenced in your letter with its own consultants. Accordingly, please contact me so that we can coordinate the time and date for the availability of our consultants for the investigation.

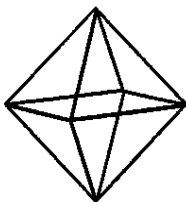
Sincerely,



Summer Cohen
KBIC Tribal Historic Preservation Officer
(906) 353-6272
scohen@kbic-nsn.gov

Cc: Susan LaFernier, KBIC Tribal Council President

Jonathan C. Cherry, P.E.
Project Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



Kennecott

Eagle Minerals

June 12, 2007

Ms. Summer Cohen
Tribal Historic Preservation Officer
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

Re: Kennecott Minerals – Eagle Site Investigation

Dear Ms. Cohen:

This letter is to confirm that I received your letter dated June 5, 2007 and to let you know that no field activities were conducted the week of June 4th related to the subject site investigation. The site investigation has been rescheduled for June 29th at 9:00 am at the project site.

The other information you requested is being assembled and will be provided under separate cover. If you have any questions in the interim, please contact me by phone, email or letter at the number or address listed at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Cherry', written in a cursive style.

Jonathan C. Cherry, P.E.
Project Manager

Cc: Ms. Susan LaFornier, KBIC Tribal President
Mr. David Salisbury, President and CEO Kennecott Minerals Company
Mr. Chris Bergman, Ph.D., RPA, Principal Archeologist, URS Corporation
Mr. Dean Anderson, Historical Archaeologist, State of Michigan Historical Center
Mr. Gene Smary, Warner Norcross & Judd

KEWEENAW BAY INDIAN COMMUNITY

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JENNIFER MISREGAN, Treasurer

Keweenaw Bay Tribal Center
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Baraga, Michigan 49908
Phone (906) 353-6623
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ELIZABETH "CHIZ" MATTHEWS
ELIZABETH D. MAYO

Jonathan C. Cherry, P.E.
Project Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855

Subject: Archeological Investigation of the Yellow Dog Plains Bedrock Outcrop

Dear Mr. Cherry,

My phone call to you Monday, June 25, 2007, was a follow-up to a letter from Keweenaw Bay Indian Community, dated June 5, 2007, in which the Community requested specific information regarding the archeological investigation that Kennecott proposes to conduct at the bedrock outcrop on the Yellow Dog Plains.

I would like to confirm our conversation including your description of the proposed archeological investigation to be conducted by Kennecott at this location which is scheduled for Friday, June 29, 2007 at 9:00 a.m., as follows:

- 1) The qualifications and credentials of the archeological investigators for Kennecott were transmitted to S. Cohen, the Community's Historic Preservation Officer, on June 25, 2007 via email attachment;
- 2) A permit had been filed with the State of Michigan by or on behalf of Kennecott and you are in the process of determining the status of that permit; and
- 3) Kennecott does not have any intention of doing any intrusive or subsurface work during this investigation and Kennecott only intends to repeat the work performed last fall by Mr. James Paquette, which was documented by Mr. Paquette in the Michigan Archeological Site Form, with the intent of determining whether any follow-up work was required by Kennecott. In essence this investigation is intended to be a walk-over investigation at the bedrock outcrop.

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

You also indicated you would like to have the curriculum vitae of the archeological personnel at the investigation that will be representing the Community. This information will be relayed to you via email attachment on June 27, 2007.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Brumleve". The signature is written in black ink and is positioned above the printed name.

Chuck Brumleve, PG
KBIC Environmental Mining Specialist

From: "Cherry, Jon (KMC)" <Jon.Cherry@riotinto.com>
To: "Summer Cohen" <scohen@kbic-nsn.gov>
Date: 6/27/2007 2:07:22 PM
Subject: Eagle Site Investigation

Ms. Cohen,

Thank you for providing the CV for Ms. Buckmaster. We are also looking forward to receiving the information about the techniques and equipment used by Mr. Paquette during the investigation from last year.

I would also like to let you know that due to logistical issues, the site investigation scheduled for Friday June 29th has been postponed. I will let you know as soon as possible when a new date is set.

Regards,

Jon Cherry

Jon Cherry, P.E.

Project Manager

Kennecott Minerals - Eagle

1004 Harbor Hills Dr

Marquette, MI 49855

office: 906-225-5791

fax: 906-225-5787

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Luis Luna/DC/USEPA/US To Carol Jorgensen/DC/USEPA/US@EPA
07/09/2007 02:46 PM cc
bcc

Subject Fw: request for initiation of NHPA Section 106 Review

history This message has been forwarded.

Carol, I called and left you a voice mail message about this e-mail and another matter. Please call me when you get a chance. Thanks.

Luis

Please tell us whether we're doing our job to your satisfaction by completing the OARM Customer Satisfaction Survey:

<http://www.surveymonkey.com/s.asp?u=727791978418>

Thank you for helping us improve our service to you!

— Forwarded by Luis Luna/DC/USEPA/US on 07/09/2007 02:39 PM —



"Summer Cohen"
<scohen@kbic-nsn.gov>
07/09/2007 10:24 AM

To Luis Luna/DC/USEPA/US@EPA
cc

Subject request for initiation of NHPA Section 106 Review

Greetings Honorable Luis Luna;

I am the Tribal Historic Preservation Officer (THPO) for the Keweenaw Bay Indian Community (KBIC), located in the Upper Peninsula of Upper Michigan. I am contacting you in hopes that you can offer some guidance.

The Upper Peninsula has been targeted by Mineral extraction companies. One company in particular, Kennecott, subsidiary of Reo Tinto, has filed a mining permit with the State of Michigan and plans to desecrate sacred grounds. Recently, I found out the EPA has required federal permit. According to EPA personnel located in Chicago, the State of Michigan is delegated with any National Historic Preservation Act requirements and relies on the state to follow through with Section 106 review under the National Historic Preservation Act. To this point, the Keweenaw Bay Indian Community Tribal Historic Preservation Office has not received one request for review from EPA agency related activities, including the proposed mining activity by Kennecott.

As the KBIC THPO, I am concerned over this situation. The KBIC wishes to be consulted regarding this ground disturbing activity, which will ultimately destroy identified traditional cultural properties related to not only KBIC, but the entire Ojibwa Nation. What options are available to KBIC?

Thank you for your time,

Summer Cohen

//s//

Summer Sky Cohen, THPO/NAGPRA
Keweenaw Bay Indian Community
Tribal Historic Preservation Office
16429 Beartown Road
Baraga, Michigan 49908
906-353-6272
Fax 906-353-6869

Email scohen@kbic-nsn.gov

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LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

Ketegitigaaning Ojibwe Nation Tribal Historic Preservation

P.O. Box 249, E23857 Poplar Circle - Watersmeet, MI 49969

Phone: 906-358-0137 or 0138 Fax: 906-358-4850



July 9, 2007

Jon Cherry, P.E.
Project Manager
Kennecott Minerals - Eagle
1004 Harbor Hills Dr
Marquette, MI 49855

RE: Notice of objection to ground disturbing activity at proposed Eagle Mine Site, Michigamme Township, Marquette County, Michigan under the Section 106 of the National Historic Preservation Act/Notification of presence of cultural properties located within vicinity of proposed ground disturbing activity

Mr. Cherry;

The LVD THPO (Tribal Historic Preservation Office) is officially registering objection to any ground disturbing activities proposed to take place at the Kennecott Minerals Eagle Mine site located in Michigamme Township, Marquette County, Michigan, and officially notifying Kennecott Eagle Mining of the presence of Traditional Cultural Properties located within the vicinity of proposed ground disturbing activity. This area contains cultural properties associated with our Tribe, as Lac Vieux Desert was once affiliated and a part of the Keweenaw Bay Indian Community. Though we sought and received federal recognition on our own, our traditional and cultural ties remain within that community.

According to Federal Regulations, when a Federal agency is involved in a project, NHPA Section 106 review is required. With EPA involvement, your proposed mining project is now considered to be "an undertaking" according to NHPA regulation, in which case, Kennecott must apply NHPA regulations, specifically the Section 106 review including proper consultation with Tribal Governments with historic presence to the specific area. Proposed Actions by Kennecott DO NOT constitute a section 106 review or proper consultation practices with Tribal governments.

The EPA remains responsible for Section 106 and the ACHP regulations, 36 CFR Part 800. However, granting and permitting agencies can condition their grants or approvals so that the **recipient** must carry out the work necessary to comply with environmental and historic preservation laws. The Federal agency will still make all findings under Section 106. In which case, it would be the responsibility of Kennecott to carry out proper consultation any surveys that might be necessary to identify historic properties such as traditional cultural properties and archaeological sites.

Kennecott proposed activities are considered, "ground disturbance", and have the potential to destroy or severely damage historic properties and are part of the overall project that must be reviewed pursuant to Section 106. Although this is State of Michigan owned land and the State obviously has authority to carry out projects, when Federal funding or permitting is involved,

the granting Federal agency is still responsible for compliance with Federal laws including the National Historic Preservation Act.

We are asking that you do not go forward on this project until a proper Section 106 review is conducted. Notify the State Historic Preservation Office immediately of the proposed undertaking and its status as an undertaking under the National Historic Preservation Act through EPA.

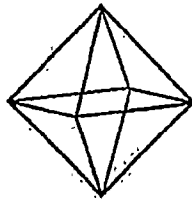
Sincerely,

A handwritten signature in black ink, appearing to read "Giiwegiizhigookway Martin". The signature is written in a cursive, somewhat stylized font.

giiwegiizhigookway Martin/THPO

CC: KBIC THPO, LAC DU FLAMBEAU, BAD RIVER, LCO

Jonathan C. Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherry@Kennecott.com



Kennecott Eagle Minerals

July 16, 2007

Mr. Dean Anderson
Office of the State Archaeologist
Michigan Historical Center
P. O. Box 30740
702 West Kalamazoo St.
Lansing, Michigan 48909-8240

Re: Site # 20MQ251

Dear Mr. Anderson,

Thank you for taking the time to talk with me on July 2, 2007, regarding cultural resources and the proposed Kennecott Eagle Minerals Company (KEMC), Eagle Project in Marquette County, Michigan. During the discussion, KEMC confirmed once again that cultural resource studies completed for the project have been conducted on a voluntary basis. Based on these voluntary investigations, which have been provided to the Michigan Department of Environmental Quality (MDEQ), Michigan Department of Natural Resources (MDNR) and your office, no archeological sites have been identified in areas where construction activities will take place.

As a result of our discussions, I am writing to inform the Michigan State Historic Preservation Office (MISHPO) of KEMC's intent to avoid all surficial ground disturbance in the portion of the Area of Potential Effect known as the Bedrock Outcrop. The specific ground disturbing activities associated with the Eagle Project include various civil construction works inside a fenced area of approximately 88 acres, such as: site clearing and grading, installation of on site utilities, construction of holding pads, buildings and maintenance shops. To access the ore body, KEMC will construct an underground decline the entry to which will be below the ground surface, and which will go beneath the Bedrock Outcrop. The outcrop itself will not be disturbed by any surface construction activities. The attached figure illustrates the proposed construction plans.

Kennecott understands that a possible cultural feature was identified on the Bedrock Outcrop in November 2006, by Mr. James Paquette. Mr. Paquette filed a Michigan Archaeological Site Form with your office and it was assigned an identification number of 20MQ251 for tracking purposes. Because this feature, which remains ambiguous in terms of its origins and purpose, was brought to the MISHPO's attention after review of the 2005 Phase I survey report of BHE Environmental, Inc., we agreed in our most recent call that Mr. Paquette's feature could be regarded as a "post review discovery". For reference, the potential feature (20MQ251) is located 71 feet to the north and over 50 feet above the decline entry described above.

As a result of earlier consultation with the MISHPO, KEMC had made arrangements to further investigate this post review discovery. However, based on the July 2, 2007, conference call between KEMC, the MISHPO, and our archaeological consultant, URS Corporation (the successor to BHE Environmental, Inc. on this project), we have all agreed that because the Bedrock Outcrop will not be subjected to ground disturbing activity, there is no need for any further archaeological investigations.

Sincerely,

Jon Cherry, PE
Project Manager

Mr. Dean Anderson
July 16, 2007

Cc: Gene Smary, WNJ
Chris Bergman, URS



State of Michigan
Jennifer Granholm, Governor

Department of History, Arts and Libraries
Dr. William M. Anderson, Director

Office of the State Archaeologist

Michigan Historical Center
702 west Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909-8240
517/373-6358

July 19, 2007

Mr. Jonathan C. Cherry
Manager, Environment and Governmental Affairs
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, MI 49855

Dear Mr. Cherry,

We have received your letter of July 16th, 2007 regarding the proposed Kennecott Eagle Mineral Company (KEMC) Eagle Project in Marquette County. Your letter discussed the apparent archaeological feature (20MQ251) found in the area referred to as the Bedrock Outcrop, and pointed out that none of the work proposed by KEMC for the Eagle Project will disturb the area in which the feature is located.

Before we respond to the issue outlined above, we think it may be useful to summarize our understanding of what has happened thus far on the Eagle Project with regard to archaeological resources.

In late April, 2006, we received a copy of an archaeological survey report for the Eagle project entitled *Phase I Archaeological Survey of Ca. 73 Acres for Kennecott Minerals Company, Eagle Project, Marquette County, Michigan*, prepared by BHE Environmental, Inc. of Cincinnati, Ohio. The report was authored by Mr. Christopher G. Leary and Dr. Christopher A. Bergman. The archaeological survey described in the report was not requested or required by the Office of the State Archaeologist (OSA). The OSA reviews hundreds of projects every year, including highways, pipelines, housing developments, and more. We conduct those reviews under the authority of Section 106 of the National Historic Preservation Act of 1966 (as amended). The purpose of those reviews is to determine whether a given project will affect an archaeological site, or sites, that are eligible for the National Register of Historic Places (NRHP). In some cases, when there is little or no information about the presence or absence of archaeological sites within a project area, we request that an archaeological survey be conducted to identify and document sites that may be affected by the project.

It is our understanding that the Eagle Project does not fall under the purview of the NHPA. Projects are subject to Section 106 review under the NHPA if they receive some type of federal assistance. Most commonly, federal assistance means the project receives some type of federal funding. But federal assistance may also mean that, in order for the project to be carried out, a permit or license must be obtained from a federal agency. When we received the archaeological survey report, we asked the Michigan Department of Environmental Quality (DEQ) whether or not the Eagle Project was receiving any type of federal assistance, and thus, would be subject to Section 106 review. The DEQ said that the project was receiving no federal assistance. Consequently, the project was not subject to review by the State Historic Preservation Office (SHPO) and the OSA, and we had no authority to ask for an archaeological survey.

Since an archaeological survey had been conducted, it appeared that the survey was done voluntarily. In subsequent discussions with the DEQ and with Kennecott, we learned that this was in fact the case. Kennecott hired an archaeological consultant to conduct an archaeological survey in an effort to identify

archaeological sites that may be affected by the project. In a case like this, when an archaeological survey has been conducted outside of the Section 106 process, the OSA will still review and comment on the report. We are always willing to offer guidance in protecting and preserving archaeological sites, even when we do not have the authority to require specific steps to be taken. In cases in which an archaeological survey has been done voluntarily, it is an indication that a good faith effort is being made to protect sites, and we want to encourage that effort.

Our review of the report indicated that the archaeological survey of the project had been carried out in a manner consistent with the standards we would expect of any survey conducted for the purpose of meeting section 106 requirements. The necessary background research had been conducted, sufficient shovel testing had been carried out, and there was even some examination of areas outside of the Area of Potential Effect (APE). No archaeological sites were identified within the project APE. However, three archaeological sites were identified outside of the APE: 20MQ228, 20MQ229, and 20MQ230. The report indicated that since the sites were all outside of the APE, Kennecott planned to avoid any impact to the sites. In a letter dated May 10, 2006, the OSA expressed the opinion that the Eagle Project would not affect archaeological resources within the APE, and we supported their decision to avoid affecting any of the three sites outside of the APE.

Subsequently, in either late December or early January 2007, we received an archaeological site form from Mr. James Paquette, documenting an apparent cultural feature within the APE of the Eagle Project. The feature is located in Work Area A, on the landform referred to as the Bedrock Outcrop. The site form describes the feature as:

“ . . . an obvious cultural pit feature on the site (see Figures 1-5), plus an associated scatter of historic metal fragments both near and within the feature (see Figure 6). The pit appears to be quite old based on its current condition/appearance. It appears to have been originally square in plan-view and measures approximately 136 cm (north wall to south wall) x 133 cm (west wall to east wall), although the partially collapsed condition of the walls makes it difficult to accurately measure the original dimensions of the pit. Its present depth is approximately 65 cm, but it is currently filled with a matting of leaves and forest debris (see Figures 4 & 5).”

In the site form, Mr. Paquette raised the question of why this feature had not been identified during the survey of the project, and he recommended that evaluation of the feature by a professional archaeologist take place.

Based on Mr. Paquette's photographs of the feature, it is apparent that it is a humanly created feature, in other words, a "cultural" feature. It is not an animal burrow or some type of natural feature. Other than that, however, the function of the pit or the reason it was dug is not clear.

On the basis of the information provided in the site form, the OSA assigned the feature an archaeological site number. Some explanation of archaeological site numbers, and how they are assigned might be useful here. Most states in the U.S. use a three-part, or trinomial, site number system. The feature on the Bedrock Outcrop was given site number 20MQ251. The "20" portion of the number stands for the state of Michigan. The "MQ" stands for Marquette County. The number "251" indicates that this is the 251st archaeological site in Marquette County to be given a site number.

The OSA maintains the official archaeological site file for the state of Michigan. In conjunction with that responsibility, the OSA assigns archaeological site numbers for sites in Michigan. Assigning a site number to a location is a means of identifying it for recording purposes. It has nothing to do with, nor does it indicate, some level of significance. We routinely give site numbers to find spots at which a single flint chip from prehistoric stone tool making has been found. The significance of the flint chip is not at

issue, but the site number provides a unique identifier for the flint chip (as the site number does for all sites). All of the pertinent information about that site is then recorded under that site number, including its location, when it was found, what was found and by whom, whether or not the flint chip was collected, and if so, where it is housed, and so forth. An archaeological site number is an identification number and a recordkeeping tool that allows all of the information about that site to be organized under that number.

On occasion, we hear people say that a particular archaeological site is "registered" with the state of Michigan. What they are referring to is the fact that the site has been assigned a site number. In this regard, the term "registered" can be somewhat misleading. First, the term suggests an implication of significance. It sounds as though this particular site is important enough to be "registered." Second, the terminology may cause confusion, because the issue of significance is an important one under the NHPA, and it hinges upon eligibility for the National Register of Historic Places (my emphasis). It is possible that if a site is described as being "registered," when what is really meant is that it has been assigned a site number, it might cause someone to think that it is listed, or eligible, for the NRHP. Assigning a site number says nothing about whether or not a site is significant. In contrast, in order for a site to be listed on, or considered eligible for, the NRHP depends entirely upon the site being considered significant.

After we received the site form for the cultural feature on the bedrock Outcrop, and assigned site number 20MQ251 to it, we discussed the situation with Kenecott. We reiterated our opinion that a thorough archaeological survey of the project had been performed. As professional archaeologists who have many years of field experience, the OSA staff knows that things can be missed in the field, whether it is an artifact or a small, discrete feature like 20MQ251. Of greater concern to us is the larger question of whether a project has been adequately surveyed. Our review of the methods and the results described in the survey report for the Eagle Project indicated that it had.

At the same time, we took the discovery of 20MQ251 seriously. We assigned it a site number, and began to discuss options about how to proceed. The presence of 20MQ251 on the Bedrock Outcrop raised questions. First, what does the pit represent, and how old is it? Second, are there other archaeological deposits in the vicinity of the pit that may be related to it? Last fall, I spoke with you about the prospect of having a professional archaeologist investigate 20MQ251 to try and answer these questions. You agreed that it would be an appropriate course of action, and you contacted Dr. Bergman, who was the Principal Investigator for the original survey, and arranged for him to conduct an investigation in the spring after the snow was off the site.

Throughout this process, the Keweenaw Bay Indian Community of Michigan (KBIC) participated in conversations about 20MQ251 with the OSA and with Kenecott. The KBIC has indicated that the Bedrock Outcrop is an important location to their tribe. As discussions were underway between Kenecott, the KBIC, Dr. Bergman, and the OSA about how the investigation of 20MQ251 would be carried out, you and I and Dr. Bergman had a telephone conversation about the Bedrock Outcrop location, and the potential impact that the Eagle Project might have upon the archaeological site. As you described in that conversation, and in your subsequent letter of July 16th, work plans for the Bedrock Outcrop vicinity will not disturb the ground surface. The work at the outcrop does include plans to drill beneath the outcrop. However, the entry point for the drilling is approximately 70 feet south of 20MQ251, and approximately 50 feet below 20MQ251. This means that drilling activity will be far below the ground surface, and will not disturb the pit feature on the surface of the outcrop. Consequently, the work planned for the Bedrock Outcrop area will avoid 20MQ251, and therefore will have no effect upon the site.

If a project is subject to Section 106 review, and this same set of circumstances develops – that is, a site has been found, but we do not know much about it or what its significance might be, but at the same time, project activities will avoid the site and have no effect on it - no further investigation of the site would be necessary, and we would not ask that further investigation be conducted. This is routine in Section 106 review procedures. We would only need more information about a site, and would ask for further investigation to obtain that information, if the project was going to affect the site. Then, we would need

to know more about the site and its significance in order to evaluate the effect of the project and determine what steps might need to be taken.

Consequently, since Kennecott's proposed activities in the vicinity of the Bedrock Outcrop will avoid site 20MQ251, and will have no effect upon site 20MQ251, there is no need to conduct further investigation of the site at this time.

We are aware that the KBIC has other concerns about the Bedrock Outcrop location. As we understand it, those concerns center on the Bedrock Outcrop as a location of cultural importance. This is, of course, a legitimate concern, but it is separate from the question of whether the Eagle Project will disturb 20MQ251. As circumstances now stand, we believe that the question of whether the Eagle Project will affect 20MQ251 is resolved. However, the question about whether the Bedrock Outcrop is a Traditional Cultural Property (TCP) - which is the terminology used in the NHPA - needs further discussion. We urge the KBIC, and any other interested groups, to document the Bedrock Outcrop as a TCP to insure that appropriate consideration and protection are afforded to that location.

If you have any questions, you may contact me at (517) 373-1618, or at deana@michigan.gov.

Sincerely,

Dean L. Anderson
Historical Archaeologist



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

COPY

SEP 12 2007

REPLY TO THE ATTENTION OF:

WU-16J

Ms. Summer Sky Cohen
Tribal Historic Preservation Officer
Keweenaw Bay Indian Community
16429 Beartown Road
Baraga, Michigan 49908

Re: Request for Consultation

Dear Ms. Cohen:

Your e-mail message, dated July 9, 2007, to Mr. Luis Luna, Assistant Administrator of the Office of Administration and Resources Management, has been referred to U.S. EPA's Region 5 Water Division for reply. As you may know, the Water Division is presently reviewing an application for an Underground Injection Control (UIC) permit related to the mining activity referred to in your message. Since we are responsible for ensuring compliance with the National Historic Preservation Act (NHPA) in connection with this permit, it is appropriate that we respond to your message.

Your message raises concerns about potential effects of mine activities on Ojibwa cultural properties. You request that the Keweenaw Bay Indian Community (KBIC) be consulted with respect to these potential effects.

As we consider our obligations under the NHPA, we agree that it would be most appropriate for the Region to consult with KBIC about potential historic properties which may be subject to NHPA. Our goal during this consultation is to hear from the Tribe on the following issues related to the mining project:

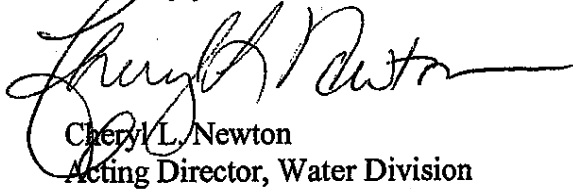
- Any concerns about historic properties;
- Identification and evaluation of historic properties, including those of traditional religious and cultural importance;
- Views regarding the effects on such properties, and, if applicable;
- Suggestions for resolution of any adverse effects.

Representatives of our office would be available to meet with you and other Tribal representatives at your convenience. I have asked Ross Micham of the UIC program to contact you to arrange a mutually convenient time and place for the consultation. We would also be happy to receive any further information about the cultural properties in advance of our meeting. Any material should be sent to:

Ross Micham
Water Division (Mail Code: WU-16J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

We look forward to our discussions with you on these issues. If you have any questions or comments, please feel free to contact me or Ross Micham. Ross can be reached at: (312) 886-4237.

Sincerely yours,



Cheryl L. Newton
Acting Director, Water Division

cc: President Susan LaFemier, KBIC
John Baker, Tribal Attorney, KBIC

KEWEENAW BAY INDIAN COMMUNITY

2007 TRIBAL COUNCIL

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ELIZABETH D. MAYO

October 15, 2007

Steven Wilson
Office of Geological Survey
P.O. 30256
Lansing, Michigan 48909-7756

RE: Comments on Proposed Decision to grant a Mining Permit to Kennecott Eagle Minerals Company (Kennecott) for the proposed Eagle Project Mine.

Dear Mr. Wilson,

The Keweenaw Bay Indian Community is a federally recognized Indian tribe and sovereign nation, having government to government relations with the United States of America and the State of Michigan. The Community is a band of the Anishnabe (Ojibwa) people who migrated to the shores of Lake Superior from the eastern seaboard of America to its final destination now known as the L'Anse Reservation.

These comments are being submitted to the Michigan Department of Environmental Quality, Office of Geological Survey (MDEQ), for the purpose of commenting on, and objecting to, the MDEQ's Proposed Decision to grant a Mining Permit to Kennecott Eagle Minerals Company (Kennecott) under the provisions of Section 63205 of Part 632, Nonferrous Metal Mineral Mining, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 632) for the construction and operation of the proposed Eagle Project Mine (Eagle Mine) underneath Migi zii wa sin (Eagle Rock) and in the near vicinity of Ozaawasimong - ziibi (Yellow Dog River) and Maazhamegosikaa -ziibi (Salmon Trout River).

These comments pertain to the protection of identified and documented Native American Cultural and Sacred Sites of the Anishnabe and Kennecott's failure to identify places of worship and cultural, historical and archaeological resources as required by the rules adopted to implement Part 632 (Rule(s)). Rule 425.202(2)(p) requires that the Environmental Impact Assessment (EIA) include analysis of impacts on "...places of worship..." and Rule 425.202(2)(ee) requires that the EIA include analysis of impacts of the proposed mine on "Cultural, historical, or archaeological resources."

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

From time immemorial, Indian tribes have relied on oral history for the establishment and understanding of their religious and cultural heritage. Oral history tells us that the Anishnabe migrated to their current locations in northern Michigan, Wisconsin, Minnesota and southern Ontario from the eastern seaboard of America by following a route along the Great Lakes through the Upper Peninsula of Michigan. At each stopping place, the Mide wiwin Society of the Anishnabe built their Mide Lodge and held their sacred religious ceremonies. There is a place on the Community's L'Anse Reservation where the Mide Lodge stood and from this site in the L'Anse Reservation, oral tradition tells us, in the distance to the east, can be seen the silhouette of both an otter and a turtle on distant mountain tops. Between these mountains and further to the east stands a high point of land which has historical, cultural and religious significance to the Community and its members and is known to the Ojibwa as Migi zii wa sin.

It must be kept in mind that, in general, Ojibwa people have a different view of the world than the European's point of view. Very few natural objects in the European world view are considered to be animate objects, whereas in the Ojibwa world view many of those European inanimate objects are viewed to be animated, in other words to have a spirit, including trees, animals, the earth and mountains. Migi zii wa sin is one of those places that is viewed by the Ojibwa as animate, as having a spirit, and not just the surface, but the entire area surrounding Migi zii wa sin.

In June of 2007, the Community's Tribal Historic Preservation Office (KBIC THPO), in response to reports from tribal members reporting cultural and sacred sites located in the area of Migi zii wa sin, conducted a surface walkover of the Migi zii wa sin and surrounding area to identify any significant cultural, historical and religious features in this area. As a result a "Preliminary Surface Cultural Resource Assessment" (PSCRA) was prepared for KBIC THPO by James R. Paquette which identified the following cultural features:

- Migi zii wa sin (Eagle Rock) – documentation of Traditional Cultural Property is on file with KBIC THPO
- Cultural pit feature (20MQ251)
- Two shallow semi-circular depressions at UTM coordinates (NAD27) 16 432616E 5177381N.
- A findspot of a quartz flake at UTM coordinates (NAD 27) 16 431707E 5177332N.
- A findspot of a quartz flake or cobble core located at UTM coordinates (NAD 27) 16 431723E 5177325N.
- Remnants of a man-made trail worn into the face of a slope at UTM coordinates (NAD 27) 16 431648E 5117729N and (NAD 27) 16 431759E 5177204N.
- A large man-made rock pile and several depressions in the side of a nearby slope at (NAD 27) 16 431667E 5177282N.

A copy of the PSCRA is attached. (Please note that the PSCRA only identified cultural, historical, and religious features and should not be considered or interpreted as a Phase I or Phase II archaeological survey and site investigation report.) The PSCRA concludes by stating that:

However, the information gathered as a result of conducting this walkover investigation of the Eagle Rock area does provide additional documentation and evidence that *potentially* significant cultural resources – in addition to the Eagle Rock site (20MQ251) --currently exist within the boundary study area.

PSCRA at p. 22.

Following the walk over in June, 2007, KBIC THPO consulted with Ojibwa traditional and religious educators and leaders who have been sources of information on Ojibwa cultural and spiritual beliefs for many years and for many bands of Ojibwa people concerning the cultural, religious and historical features of the Migi zii wa sin and conducted a second walk over of Migi zii wa sin area in order to make a determination as to its significance. Each person examined the area and listened to tribal members who had used the site and through memory of oral tradition. Their conclusions that were reported to, and documented by, the KBIC THPO was that Migi zii wa sin is indeed a sacred place and must not be destroyed or damaged in any way.

According to the Part 632 Rules, an applicant for a mining permit must include in the EIA an analysis of impacts of the mining on places of worship (Rule 425.202(2)(p)) and the applicant must conduct an analysis and consider the effects of mining on cultural, historical or archaeological resources (Rule 425.202(2)(ee)). "Cultural, historical or archaeological resources" are defined under Rule 425.102 (g) (ii) as a structure or site that is listed on the National Register of Historic Places pursuant to the provisions of the National Historic Preservation Act of 1966 (NHPA).

Prior to the year 2000, the NHPA did not protect properties that were not officially listed on the National Register of Historic Places. In 2000, however, NHPA was amended to recognize and protect properties which met the criteria for eligibility and listing on the National Register, without having to be listed. The reason this exception was created was to help protect sites which were eligible for listing on the Register, but were not meant to be public attractions, such as sacred religious sites currently being used by a Native American tribe, a culturally sensitive landmark that held ties to a tribe's creation or to protect the location information of tribal burial mounds from souvenir collectors. Because sites such as these do not have to be listed to be protected, the National Register is not 100% reliable in identifying historic sites protected under the NHPA. In order to insure that sites that are eligible for listing, but not listed, on the National Register are identified prior to project activity, a person who is subject to NHPA definitions "cultural, historical or archaeological resources" must necessarily contact all tribes with historic ties to the areas that may be impacted by the permitted activities in order to obtain information concerning any cultural, historical or archaeological "structures or sites" as defined under NHPA.

In its mining application, Kennecott claims that there are no Native American cultural sites located within the project area. However, to our knowledge, Kennecott consultants did not consult with any Native American tribes regarding cultural sites which would be impacted by the mining activity. In a last ditch effort, Mr. John Cherry of Kennecott Minerals Company did agree, in June, 2007, to enter into a joint investigation with the KBIC THPO in order to identify

cultural features within the proposed project area, but cancelled the investigation just one day prior to the date set for that investigation, for reasons that are not known to the Community.

On several occasions the KBIC THPO has attempted to discuss this matter with both MDEQ and Kennecott officials. Both MDEQ and Kennecott have been informed that there are documented sacred sites located within the proposed project area that were not documented in the EIA. At this point, the Community has not been given the opportunity to consult with either of these entities regarding its cultural resource concerns.

The Community is aware of certain determinations made by Office of the State Archaeologist (OSA) in its letter to Kennecott, dated July 19, 2007 (OSA Letter), and disagrees with, and objects to all but one of those findings of OSA, as follows:

1. OSA states in the OSA letter that the Kennecott archaeological survey was not "requested or required by" OSA. While this conclusion is no doubt true, Kennecott was required under the Rules, for purposes of obtaining a mining permit, to identify in the EIA any "cultural, historic or archeological resource" listed or eligible for listing on the National Register under NHPA, as amended.

a. OSA does not have any jurisdiction under Part 632 to make the determinations discussed in the OSA Letter. Only MDEQ has jurisdiction to administer Part 632 and to make the determination as to whether the requirements of R.425.202(2)(ee) had been complied with by Kennecott.

b. Even if OSA had jurisdiction or some advisory or consulting capacity to MDEQ under Part 632 regarding the impact of the NHPA definitions on R.425.202(2)(ee) issues, it certainly does not have authority to give Kennecott advisory or consulting assistance on, and should not have rendered any conclusions on, the subject matter of its letter dated July 19, 2007, to any person or entity other than the MDEQ.

2. OSA states in the OSA Letter that it is OSA's understanding that the "Eagle Project does not fall under the purview of the NHPA" and that the "survey was done voluntarily".

a. While this statement about not falling under the purview of the NHPA may or may not be true, depending upon issues pending at the U.S. Environmental Protection Agency, it is obvious from that statement that OSA was not informed by MDEQ or Kennecott that requirements of R.425.202(2)(ee), which by virtue of the definitions in R.425.102 (g) (ii), incorporate by reference the operative sections of the NHPA concerning "cultural, historical or archaeological" structures or sites listed or eligible for listing under the NHPA for purposes of the preparation of an EIA under the requirements of Part 632.

b. Not once in the four (4) page, single space, OSA Letter did OSA even mention, much less, give any attention to, or arrive at any conclusions with respect to, the requirements under R 425.202(2)(ee) that Kennecott, in its preparation of the EIA, is required to include in the EIA a listing of, and an analysis of, the impacts of the mining on "cultural, historical or archaeological" structures or sites listed or eligible for listing under the NHPA.

3. In the OSA Letter, OSA equates "culture feature" 220MQ251 to a "small artifact" and, in effect, dismisses the failure of Kennecott's archaeologists to identity this feature as basically something that "just happens" in field work which at best is disingenuous given the actual size of 220MQ251 and the fact that this site is readily apparent to laymen who have visited the site, but, apparently never physically inspected by OSA, or is, at worst, bad archaeology.
4. OSA was apparently misinformed or misunderstood the nature of the actual physical construction that Kennecott proposed to undertake so as to avoid "affecting" 20MQ251.
 - a. According to its letter of July 19, 2007, OSA understood that there were only "plans to drill beneath the outcrop". In fact, Kennecott plans to build a "truck tunnel" underneath the bedrock outcrop which will serve as the principal portal to the Eagle Mine for trucks hauling approximately 2,000 tons of material per day out of the mine .
 - b. The "truck tunnel" will have a span of 24' and will be constructed by using "drill and blast" methods of tunneling, at approximately 10' per explosion, into the bedrock which constitutes the base of Migi zii wa sin (Eagle Rock).
 - c. While the construction of the tunnel into the bedrock may not directly affect the surface area occupied by 20MQ251, the consequence is that the structural integrity of Migi zii wa sin will be adversely affected by this activity which will cause fissures in the bedrock, loosening and dilation of the rock mass and increase the potential for collapse of Migi zii wa sin. In addition, this activity and the fencing or closure of the surrounding area will prevent access by members of the Community to this cultural site for years to come.

Consequently, Kennecott's activity in the vicinity of 20MQ251 will not avoid the site of 20MQ251 and will, in fact, adversely affect the site and prevent access to the site for many years to come.

We do concur with OSA's conclusion that the question of whether Migi zii wa sin is a Traditional Cultural Property (TCP) "needs further discussion". Under R. 452.202 (1) and (2), it is the obligation of Kennecott to include in the EIA, and for MDEQ to verify that the EIA includes, each of the following items required by the Rules for inclusion in the EIA including, but not limited to: the identification and description, the identification of the proposed mining activity that will impact, and an analysis of the potential impacts of the proposed mining activity on structures or sites, which are "cultural, historical, or archaeological resources" under the NHPA.

As noted above, Kennecott scheduled a joint site investigation with KBIC THPO of Migi zii wa sin in June, 2007, but cancelled the investigation the day before the investigation was to take place. Under the National Register Bulletin, Guidelines for Evaluating and Documenting Traditional Cultural Properties, 1990, REVISED 1992; 1998, a person or entity that is required to identify Traditional Cultural Properties is required to use "reasonable efforts" to establish the identification, including Contacting Traditional Communities and Groups, Field Work and Reconciling Sources. (See Guidelines at p. 6.) In its preparation of the EIA, as filed with the MDEQ, Kennecott did not undertake the "reasonable efforts" required by the Guidelines as evidenced by the fact that it canceled the only joint site investigation that it had scheduled with

KBIC THPO. Moreover, MDEQ, although made aware of the fact that the Community considered Migi zii wa sin a Traditional Cultural Property, has not used "reasonable efforts", prior to the issuance of its Proposed Decision, to verify with the Community the identification of Migi zii wa sin as a Traditional Cultural Property under the NHPA.

In summary, Kennecott's EIA is defective and the permit application does not qualify for a permit under Part 632 because it does not comply with the requirements of the Rules issued under Part 632 and the issuance of a permit for the construction and operation of the Eagle Mine will impair and/or destroy the culturally significant sites identified above and the sacred area that is known to the Ojibwa as Migi zii wa sin, which is a Traditional Cultural Property eligible for listing on the National Register. Accordingly, MDEQ, must not issue a final decision granting the mining permit to Kennecott.

If the MDEQ intends to issue a final decision granting to Kennecott a permit to construct and operate the mine, that action will have a substantial direct effect on the Community and, as such, will constitute, "state action significantly affecting" the Community's interests. Accordingly, before issuing its final decision granting a mining permit to Kennecott under Part 632, the Community hereby requests consultation with the State of Michigan concerning this proposed action as provided for under the terms of the 2002 Government-to-Government Accord, October 28, 2002, between the State of Michigan, the Community and other federally recognized Indian tribes.

Sincerely,



Susan J. LaFermier
President

**Preliminary Surface Cultural Resource
Assessment of the Eagle Rock Project Area,
Marquette County, Michigan**

Prepared for:
Summer Cohen
Keweenaw Bay Indian Community
Tribal Historic Preservation Office
16429 Beartown Road
Baraga, Michigan 49908

Prepared by:
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1022 Cedar Street
Negaunee, Michigan
49866

June 2007

Part 1: Introduction

In response to a request from Summer Cohen/ Keweenaw Bay Indian Community/ Tribal Historic Preservation Officer to organize and conduct a “surface walkover of the Eagle Rock and surrounding area for cultural features,” I completed a Preliminary Surface Cultural Resource Assessment (PSCRA) of the targeted study area utilizing the methodology as outlined in my 5/10/07 project plan (email to Ms. Cohen). The project area is located in Sections 11 and 12, T50N-R29W of Michigamme Township, Marquette County.

The primary objective of the two-day onsite pedestrian survey was to locate and document any surface indications of potential historic and/or prehistoric cultural features that are located within the targeted areas that were defined by Charles Brumleve on the Kennecott Minerals Company Eagle Project maps that he provided to Ms. Cohen and I (see green areas in Figure 1). In addition, a secondary but equally important objective was to also locate and document any potential significant cultural materials (artifacts) that are lying exposed on the disturbed surfaces within the study area.

A brief written description of the targeted study areas was also provided by Mr. Brumleve to Ms. Cohen in a May 15, 2007 communication that accompanied the copies of the project maps. It is as follows:

“The two areas that will be affected the most are labeled on the maps as the Main Surface Facility (north of and surrounding Eagle Rock) and the Backfill Facility (near the Salmon Trout River on the south side of the Triple A Rd). Figure 2-3 shows the areas (in green) where Kennecott will scrape the ground surface so (these) are very important for the survey. The most disturbance will occur in the north half of Section 12.”



Figure 1: targeted study areas are in green (copied from Brumleve map/Figure 7-3)

Part II: Field & Laboratory Methods

The two-day field assessment and onsite walkover survey of the Eagle Rock area was conducted by Jim Paquette and Summer Cohen with the assistance of volunteers Pam Nankervis, Evelyn Ravindran, Char Beasley and Chauncey Moran. Inspection of the ground surface within the defined study area was conducted using pedestrian survey techniques only. All areas visited during the walkover survey were examined for surface indications of potential cultural artifacts and features, including trails, stone hearths, foundations, mining exploration pits, miscellaneous excavations, and other suspected

man-made earthen and/or rock structures. Field notes were kept containing brief descriptions of all notable surficial artifacts and features. Their locations were documented in the field notes and marked with a Global Positioning Satellite waypoint using a MAGELLAN Meridian GPS unit.

A digital still image record of the study area was obtained using a SONY Cyber-Shot DCS-T20 (8.1 mega pixel) camera. Pictures of suspected and identifiable man-made cultural features and artifacts observed during the Eagle Rock area walkover survey were recorded. The locations and orientation of the individual images were noted.

All field notes, maps, sketches, and site pictures were organized and reviewed for completeness.

Digital image copies of the study area maps were produced and then modified using image editing software (MGI Photo Suite) to create the site maps that are used in this report.

A final summary report was compiled, written, and then sent to Summer Cohen on June 3, 2007.

(Note: This Eagle Rock Area Preliminary Surface Cultural Resource Assessment summary report should not be interpreted as being a Phase I or Phase II archaeological survey and site investigation report. It is intended to be “preliminary” in nature, and should be viewed as such).

Part III Eagle Rock Area
Preliminary Surface Cultural Resource Assessment Results

The Eagle Rock Area PSCRA results have been organized and presented in two separate sections, including:

Section A: Area 1

(“Main Surface Facility area north of and surrounding Eagle Rock” per Brumleve’s maps & 5/15/07 communication)

Section B: Area 2

(“Backfill Facility area near the Salmon Trout” per Brumleve’s maps & 5/15/07 communication)

These sections provide a summary report of the May 17/18, 2007 walkover survey events, and documentation of identified and/or suspected cultural artifacts and features found in the Eagle Rock study area during the project.

Section A: Area 1

(Main Surface Facility area north of & surrounding Eagle Rock)



Figure 2: Area 1 is in green

Area 1 Surface Walkover Survey: Summary of JRP Field Notes

May 17, 2007: I arrived at the Eagle Rock Area 1 at 8:00 a.m. and parked just east of the of the Eagle Rock site (20MQ251). Immediately after my arrival, I walked in a northerly directions down the Kennecott Eagle Project road that runs N & S along the east border

of the tree line that marks the edge of the State of Michigan property in order to view the project area and compare the actual layout of the terrain with the maps that were provided to me by Mr. Brumleve and Ms. Cohen. For the next hour, I spent time walking through the three adjoining State of Michigan 40 acre lots and the one adjoining Kennecott 40 acre lot that comprise the four quadrants of the Area 1 study area.

At 9:00 a.m., I met up with Summer Cohen and her team of volunteers (Pam Nankervis, Evelyn Ravindran, and Char Beasley) at Eagle Rock. We spent time reviewing the maps and the surface walkover survey plan. I then conducted an onsite training session for our team of volunteers on how to identify cultural features and prehistoric cultural materials/artifacts.

At 10:00 a.m., we started the surface walkover survey in the west half of Area 1. Our methodology was quite simple: we lined up 5 abreast in an east to west line at approximately 15 meter intervals, and then began our search while slowly walking from south to north. This allowed us to search a 60 meter swath through the study area with each pass. Upon reaching the back (far north) boundary of the search area, we then re-aligned ourselves in same “search pattern” and walked from north to south back to the vicinity of Eagle Rock.

In the forested areas, we encountered numerous **natural** surface features (i.e. old tree deadfall root upheaval depressions, animal burrows, etc) and some more recent Kennecott Eagle Project work disturbances (i.e. bulldozed berms and roadways, drill sites, etc). While surveying the extensive clear-cut areas within the study area, we encountered heavily disturbed ground surfaces from the previous commercial logging activities (i.e. deep furrows and ruts, skidding trails, earth and brush/waste piles, etc), as

well as additional wide-spread surface ground destruction from recent Kennecott Project related work (see Figure 3).



Figure 3: photo of heavily disturbed clear-cut area within Area 1

Although these highly disturbed surface areas made it difficult *at best* to discern the presence of any possible cultural features, the extensive ground disturbances throughout the Area 1 study area did provide the walkover survey team with an excellent opportunity to search for surface cultural artifact deposits (see Figure 4).



Figure 4: photo and example of roadway in Area 1 that offered opportunity for team to inspect for newly exposed cultural materials/artifacts.

During our second 60 meter sweep, Ms. Cohen encountered two shallow semi-circular depressions in the ground located just outside the clear-cut near the northern edge of the forested area that is adjacent to and north of the Eagle Rock site (see Figure 5). I immediately inspected the depressions. After a discussion as to whether or not they were man-made or natural features, it was decided to document their location for future analysis.



Figure 5: Summer Cohen standing near the “ER1” ground depressions.

One of the ground depressions measured approximately 4' x 5' in size. About 14' to the SW was the second depression that measured approximately 4' x 3' in size (see Figure 6). I labeled this ground feature locale as “ER1” with my GPS unit. The UTM coordinates are: **(NAD27) 16 432616E 5177381N**.

Photos were then taken of the ground depressions.



Figure 6: photo of one of the “ER1” ground features.

No other potential features or any surface artifacts were encountered during the morning’s walkover.

At 12:30 p.m., the three volunteers left the site, while Cohen and I resumed the survey. At that point, it seemed obvious to the two of us that it would be fruitless to continue the search for surface cultural features in the deforested/clear-cut areas in light of the overall destruction and very limited surface visibility. As such, we changed our survey strategy to adapt to the surface conditions that we had encountered in the Eagle Rock area. We decided to focus our “patterned search” for surface cultural features primarily in the remaining forested areas of Area 1 where the ground conditions still

remained relatively undisturbed (see Figure 7). In addition, we also focused on identifying and searching **all** recently disturbed areas (i.e. all roadways, test drill locations, dozed open areas, etc.) for cultural materials/artifacts that may have been exposed on any of the new surfaces created by the commercial logging and mine project related ground disturbing activities.

We thus completed the ground walkover survey of the remaining forested/wooded areas in Area 1 with a series of patterned sweeps. We then continued our pedestrian surface search in the disturbed portions of the adjoining deforested areas.



Figure 7: photo and example of a forested area within Area 1.

We completed the surface walkover in the west half of the study area, and then continued our search into the eastern half.

At 3:00 p.m., Ms. Cohen left the Eagle Rock area, and I continued the surface reconnaissance for cultural materials in the NE and SE quadrants of Area 1 using an ATV to both access and search all roadways, drilling sites, and all other exposed areas that were encountered (see Figure 8).



Figure 8: photo of one of the exposed surface areas in the SE quadrant of Area 1.

I continued the surface search until 4:00 p.m., at which time I left the Eagle Rock project area.

Other than the two “suspicious” surface features (ER1) that were located by Ms. Cohen early in the day, no additional potential cultural features were found during the course of the walkover survey on May 17 in Area 1. In addition, no cultural materials/artifacts were identified in any of the areas that were searched during the daylong surface walkover.

May 18, 2007: On day 2 of the survey, I arrived at the Eagle Rock site at 8:15 a.m. and walked through the deforested areas that still remained to be surface searched in the SE quadrant of Area 1. Again, this initial walk-through was for the purpose of comparing the actual layout of the terrain in the project area with the site maps.

At 9:00 a.m., Ms. Cohen arrived at the site by herself. We immediately set out to complete the walkover survey in the remaining areas in Area 1. Our pedestrian survey of these very heavily disturbed areas (mainly this past winter’s Kennecott test drill sites just east of Eagle Rock) consisted solely of a surface search for any cultural materials that may have been exposed (see Figure 9). We completed our walkover survey of the Area 1 SE quadrant at 11:00 a.m.

Only modern artifacts were identified in this area, including one rusted metal oil can and a fairly large amount of work-related litter left behind by the test drilling crews. In addition, no cultural features were identified in any of the ground surface-destroyed areas that we encountered and searched in this quadrant.



Figure 9: photo and example of heavily disturbed area in Area 1.

Section B: Area 2

(Backfill Facility area near the Salmon Trout)

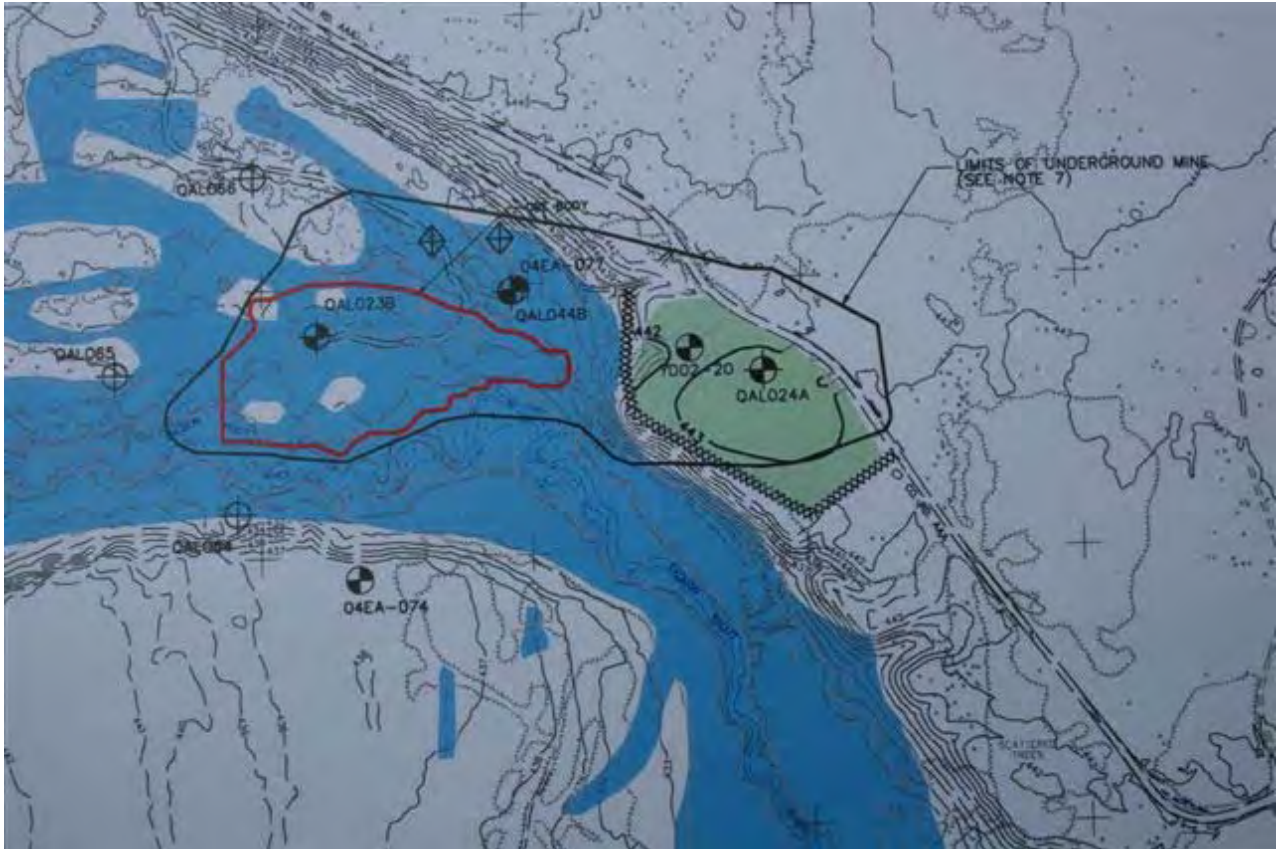


Figure 10: Area 2 is in green

Area 2 Surface Walkover Survey : Summary of JRP Field Notes

May 18, 2007: Shortly after the completion of our surface walkover of Area 1, Chancey Moran arrived at the Eagle Rock site to volunteer his time and expertise to our project. Upon his arrival, we left Area 1 and drove to the nearby Area 2.

At noon, we began a patterned surface walkover of the study area. We lined up three abreast approximately 5 meters apart and walked from west to east along the deforested upper terrace. We started on the south border of the targeted area and slowly worked our

way to the north with each sweep until we had searched the entire surface of Area 2. Although the area was heavily impacted by past commercial logging and recent Kennecott Eagle Project development work, the highly disturbed surfaces again provided us with an excellent opportunity to inspect the exposed areas for cultural artifacts.



Figure 11: parking area in Area 2 near survey stakes.

In the parking area near a set of Kennecott project survey stakes (see Figure 11), we located a quartz flake in the roadway (see Figure 12). We marked the findspot of the flake with a GPS waypoint (designated as “ER2”) and then photographed this probable cultural artifact *in situ*.

The GPS coordinates are: **NAD 27 16 431707E 5177332N.**

The quartz flake was left undisturbed.



Figure 12: *in situ* photo of quartz flake “ER2”

Approximately 22 meters to the east, we located another quartz flake or small cobble core (see Figure 13). Again, we marked the location of the probable cultural artifact with a GPS waypoint (designated as “ER3”) and photographed it *in situ*.

The GPS coordinates are: **NAD 27 16 431723E 5177325N.**

This quartz flake was also left undisturbed.



Figure 13: *in situ* photo of quartz flake “ER3”

After we were satisfied with our survey coverage of the upper terrace area of Area 2, we decided to expand our surface visual reconnaissance efforts to the west and northwest along the exposed surfaces of a roadway that runs along the bottom of the terrace. Our visual inspection of the sandy roadway surface extended approximately 600 meters to the west. We then swung north and up onto the Triple A road that runs atop the terrace and inspected the deflated roadway for surface artifacts all the way back to our parked vehicles at Area 2. No other cultural artifacts were identified during this extended effort.

With the time we had remaining in the day, we decided to conduct one last walkover survey in an area directly south of and adjacent to the upper terraced section of Area 2.

This final inspection covered the still-forested and grass covered south facing steep slope of the terrace that borders the Salmon Trout River and its swampy lowland floodplain.

We immediately noticed the remnants of an obvious man-made trail worn into the face of the slope. We marked the trail with two GPS waypoints (designated as “ER4” and “ER6”) and photographed it from various angles (see Figure 14).

The two recorded GPS waypoints are: **NAD 27 16 431648E 5117729N** and **NAD 27 16 431759E 5177204N**.



Figure 14: photo of trail at location “ER4” looking west.

In the same vicinity at the very bottom of the slope on the edge of the swamp and near the Salmon Trout River, we located another apparent cultural feature—a large man-made

pile of large rocks (see Figure 15). Rough measurements of the rock pile were made and recorded, a GPS waypoint marking its location was established (designated as ER5), and photographs were taken.

The GPS coordinates of the rock feature are: **NAD 27 16 431667E 5177282N.**

We did not disturb the feature in any manner whatsoever.



Figure 15: photo of rock feature “ER5” looking south.

In addition to the rock feature, we noticed several suspicious depressions in the side of the nearby slope that appeared to be possible man-made excavations of some sort (see

Figure 16), perhaps associated with the nearby rock feature. Their locations were noted, and one photograph was taken.



Figure 16: photo of “suspicious” depression and possible cultural feature in hillside near rock feature and trail.

At 3:45 p.m., we completed the Eagle Rock area walkover survey and left the site area.

Part V: Discussion & Conclusions

As stated earlier in this summary report, the objective of the Eagle Rock Preliminary Surface Cultural Resource Assessment was to locate and document any potentially significant surface cultural features and/or artifacts that are located within the study area as outlined and defined in the maps that were provided by Mr. Brumleve.

The May 2007 pedestrian survey efforts did locate a limited number of suspected surface cultural features within the Eagle Rock study area. Information on these features (brief descriptions, locations as marked by GPS waypoints, digital images) was recorded to provide the necessary documentation to complete this PSCRA summary report.

In addition, a small lithic scatter of suspected prehistoric cultural material, consisting of two small quartz flakes, was likewise located within the defined Eagle Rock study area and subsequently documented within this report.

As the purpose of the Eagle Rock Area Preliminary Surface Cultural Resource Assessment was simply to locate and document the presence of potential cultural features and artifacts located within the defined study area, no attempt was made to evaluate the degree of cultural significance of any of the suspected features and/or artifacts found during the surface survey. However, the information gathered as a result of conducting this walkover investigation of the Eagle Rock area does provide additional documentation and evidence that *potentially* significant cultural resources—in addition to the Eagle Rock site (20MQ251)—currently exist within the boundaries of the study area. Further research and appropriate fieldwork is now needed to provide the needed data and analysis to accomplish the task of completing the necessary archaeological and cultural site evaluations.

James R. Paquette
1022 Cedar Street
Negaunee, Michigan 49866
Tel: (906) 475-7498 Email: paquetjr@aol.com

WORK HISTORY

1974 - Present Cleveland-Cliffs Iron Co./Tilden/Empire ('98-present Senior Staff Safety Rep; '96-98 Senior Coordinator; '95-96 Coordinator 1; '93-95 General Foreman; '92-93 Ass't General Foreman; '91-92 Foreman; '74 -91 Hourly)

EDUCATION

- Northern Michigan University B. S. Degree/*Magna Cum Laude* in Social Services 1974
(Phi Alpha Theta International Honor Society/NMU 1973)

Additional Relevant Job Experience

- Certified Mine Safety Professional/International Society of Mine Safety Professionals
- Cliffs Safety Systems Auditing Team Member/Accredited DNV Auditor
- Cliffs Safety Leadership Team Member & Leadership Skills Workshop Instructor
- Cliffs Supervisory Leadership Skills Training Task Force Member
- Cliffs DDI/Skills for An Empowered Workforce Training Team/Certified Instructor
- Certified Mine Safety and Health Administration Safety Instructor
- Tilden Senior Management Organization Member (1996-98)/Pit Maint. Dept Leader
- USWA L.U. 4974 Safety Committee Chairman & Grievance Committee Chairman

Additional Relevant Education & Training

- Det Norske Veritas Accredited Safety System's Auditing Course (40 hours) 1998
- Det Norske Veritas Modern Safety Management Course (40 hours) 1997
- Tilden/CCI Management Safety Training/ILSI (40 hours) 1990
- MTU States Grant MSHA Compliance Training 2002
- U.S. Dept of Labor/National Mine Safety & Health Academy "Accident Prevention Techniques" (24 hours) 1984
- Jackson & Kelley and the Henry Moore MSHA Compliance Training
- Industrial Hygiene Air Monitoring Workshop (20 hours) 2001
- Rapport Power of Communications 2000
- Karras/Effective Negotiating Course (15 hours)
- Cliffs Apprentice Program/Craft Status Maintenance Mechanic Standard 1979
- Many other various mine safety, communications, & leadership related training courses.

Other Personal Achievements

--Currently employed by Cleveland-Cliffs Iron Co. as Senior Staff Safety & Health Representative at the Cleveland Cliffs Michigan Operations.

--Graduate of Negaunee High School (1970) and member of Nat'l Honor Society
--**MAGNA CUM LAUDE** graduate of Northern Michigan University (1974)
--B. S. degree with major in Social Services and minor in History
--Inducted into the **PHI ALPHA THETA** International Academic Honor Society (Omicron-Mu Chapter/Northern Michigan University 1973)

--Since May of 1984, has been conducting an ongoing archaeological survey project in the central Upper Peninsula for the purpose of locating, documenting and preserving prehistoric/historic Native American cultural sites and artifacts.
--Documented with the Michigan History Division the discovery of the earliest archaeological evidence of human occupation in the Upper Peninsula that helped prove that ancient Paleo-Indian peoples lived in the study area since the end of the last Ice Age some **12,000 years** ago.
--Discovered and documented the **earliest** archaeological evidence of 17th century European/French contact with Native Americans in the Marquette County.

--Authored the book ***THE FIND OF A THOUSAND LIFETIMES: THE STORY OF THE GORTO SITE DISCOVERY***/AuthorHouse 2005. This book is an illustrated historical account of the discovery and excavation of Michigan's famed Late Paleo-Indian Gorto Site (20MQ39).

--Has co-authored & published archaeological research papers with Dr. Marla Buckmaster/Northern Michigan University, including: "***The Gorto Site: Preliminary Report on a Late Paleo-Indian Site in Marquette County, Michigan***"/***THE WISCONSIN ARCHAEOLOGIST*** 1988, and "***Surface Indications of a Late Pleistocene and Early Holocene Occupation at Silver Lake Basin, Marquette County, Michigan***" /***INVESTIGATING THE ARCHAEOLOGICAL RECORD OF THE GREAT LAKES STATE***/ New Issues Press 1996.

--Has co-authored & published with Dr. John Anderton/NMU & Dr. Robert Regis/NMU the research paper "***Geoarchaeological Context for Late Paleo- Indian Archaeology in the North-Central Upper Peninsula of Michigan, USA***"/***THE LATE PALEOINDIAN GREAT LAKES: GEOLOGICAL AND ARCHAEOLOGICAL INVESTIGATIONS OF LATE PLEISTOCENE AND EARLY HOLOCENE ENVIRONMENT***/Canadian Museum of Civilization 2004

--Employed by NMU as Research Assistant for Dr. Buckmaster to work on the Goose Lake Paquette Site research project and the published report ("***A Report on the Early Component at the Paquette Site: Marquette County Michigan***"/***THE WISCONSIN ARCHAEOLOGIST*** 1989).

-- Instructor for the NMU Professional Development & Enrichment Program on Upper Great Lakes Region archaeology.

--Conducted the Silver Lake (1987-88 & 2002-06) and Deer Lake reservoir archaeological surveys (1986-87) that resulted in the discovery and documentation of numerous ancient Paleo-Indian/Archaic/Woodland period cultural sites.

--Participated in numerous professional archaeological surveys and site excavations with Dr. Buckmaster/NMU including test excavation projects at the Negaunee Site/1985, Eagle Feather Site/1985,

Gorto Site/1987, Paquette Site/1987, Lake Sally Dam Site/1990, Mt. Mesnard Site/1991, Goose Lake Outlet #3 Site/1999 & 2000, Silver Lake Voelkers Creek & Silver Lake Sand Point #3 Sites/2004.

--Authored numerous articles and news reports on prehistoric and historic research projects for local and regional media, including "***Burning Desire: My Search for Early Man in Michigan's Upper Peninsula***"/*LAKE SUPERIOR MAGAZINE* 1996, and "***Campsites of Ancient Miners Found in Negaunee-Ishpeming***"/*THE MINERS' VOICE* which received the **AWARD OF EXCELLENCE/BEST FEATURE STORY** by the USPA in 1986, plus many others.

--Serves as a program speaker providing lectures and slide programs on various local and regional archaeological projects and topics.

--Recipient of the **HELEN LONGYEAR PAUL MEMORIAL AWARD** from the Marquette County Historical Society "for the preservation and enhancement of history." (1986)

--Awarded **Lifetime Membership** in the Negaunee Historical Society in recognition of contributions towards preserving and promoting local and regional history (1987)

--Past president and charter member of Negaunee Historical Society.

--Awarded the United Steelworkers Press Association's **LLOYD MCBRIDE AWARD** "for outstanding achievement in the field of labor journalism," and **THE UNITED STEELWORKERS AWARD OF EXCELLENCE FOR SAFETY & HEALTH JOURNALISM** for researching, authoring, and publishing a series of historical articles on several early 20th century mining disasters in the Negaunee Mining District. (1984)

--Served as editor-in-chief and primary contributing author for a special historical edition of the publication ***THE MINERS' VOICE*** which commemorated the landmark 1946 iron ore miners' strike on the Marquette Iron Range. At ceremonies in Las Vegas, Nevada, was the recipient of several journalism awards for this publication, including the **1988 HUMAN RIGHTS SPECIAL AWARD** by the United Steelworkers of America International Union.

--As a freelance writer and photographer, has had numerous articles and photos published in several national and regional outdoor publications, including ***MICHIGAN OUT-OF-DOORS, BOWHUNTER MAGAZINE, ARCHERY WORLD, HUNTER'S DEER HUNTING ANNUAL, BOWHUNTER'S SPECIAL ANNUAL, ANGLER & HUNTER MAGAZINE,*** and ***MICHIGAN BOWHUNTERS NEWS.***

--Published articles and photos in the leading national treasure hunting magazines, including ***WESTERN & EASTERN TREASURES, TREASURE MAGAZINE, LOST TREASURES*** and ***THE OLD BOTTLE MAGAZINE.***

05/06/07

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P. O. Box 9 • Odanah, WI 54861 • 715/682-6619 • FAX 715/682-9294



• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band
Red Cliff Band
St. Croix Chippewa
Sokaogon Chippewa

MINNESOTA

Fond du Lac Band
Mille Lacs Band

October 17, 2007

DEQ/DNR Kennecott Comments
Office of Geological Survey
525 W. Allegan, P. O. Box 30256
Lansing, MI 48909-7756

Dear Sir or Madam,

Staff of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) submit these comments on Kennecott Minerals Company's proposed underground mine in the Yellow Dog Plains of Marquette County, Michigan, in particular the Department of Environmental Quality's (DEQ's) preliminary decision to grant those permits in accordance with the draft permit conditions proposed by the DEQ. These comments pertain to the off-reservation reserved treaty rights of GLIFWC's member tribes, including the Keweenaw Bay Indian Community. Comments on other aspects of the proposal and draft permits are being submitted under separate cover.

As you may know, GLIFWC is an organization exercising delegated authority from eleven federally recognized Ojibwe (or Chippewa) tribes in Wisconsin, Michigan and Minnesota.¹ Those tribes have reserved hunting, fishing and gathering rights in territories ceded in various treaties with the United States. GLIFWC's mission is to assist its member tribes in the conservation and management of natural resources and to protect habitats and ecosystems that support those resources. The proposed Yellow Dog (or Eagle) mine is located within the territory ceded by the Treaty of 1842. Please note that the following comments are submitted by GLIFWC staff with the explicit understanding that each GLIFWC member tribe may choose to submit comments from its own perspective.

¹ GLIFWC member tribes are: in Wisconsin -- the Bad River Band of the Lake Superior Tribe of Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of the Mole Lake Band, and Red Cliff Band of Lake Superior Chippewa Indians; in Minnesota -- Fond du Lac Chippewa Tribe, and Mille Lacs Band of Chippewa Indians; and in Michigan -- Bay Mills Indian Community, Keweenaw Bay Indian Community, and Lac Vieux Desert Band of Lake Superior Chippewa Indians.

In fact, four of GLIFWC's member tribes have taken action expressing their concerns about the potential environmental impacts of the proposed Yellow Dog mine and their belief that the mine's potential impacts are antithetical to the long term protection of Lake Superior and its watershed. Copies of these four resolutions are attached for inclusion in the record.

In 1998, GLIFWC commissioned a report entitled "*Cultural and Economic Importance of Natural Resources Near the White Pine Mine to The Lake Superior Ojibwa.*"¹ While the report focuses primarily on natural resource use in the Ontonagon area, the themes of the report are relevant throughout the UP and, more broadly, throughout the 1842 ceded territory. More specifically, the importance of a wide variety of natural resources and the broad area from which they were and continue to be gathered, are reflected in the recollections of the tribal members interviewed for the report. A copy of the report is attached, however several excerpts are included here to demonstrate the potential impact that a large industrial site may have on the exercise of treaty reserved rights. The report also contains recommendations that should be followed in order to develop a fuller understanding of the ways in which Ojibwa people have used and continue to use the land in and around the Yellow Dog plains. The report states:

The documentation shows that Ojibwa economy from earliest recorded history to modern times rests upon hundreds of resources spread over a large area. Ojibwas found some resources close to the [White Pine] mine and traveled hundreds of miles for others. Hundreds of plant and animal species provided essential resources in their season.

In another project, GLIFWC worked with tribal elders to compile the names of places and natural features in the 1842 ceded territory. As the attached map shows, the Ojibwa (or Anishinaabe) word for the Salmon Trout River is Maazhamegosikaa-ziibi. The word for the Yellow Dog River is Ozaawasimong-ziibi. Clearly, the Anishinaabe names for these places indicates that they were known to the inhabitants of the Upper Peninsula. The Yellow Dog plains were and continue to be used by tribal members for berry picking during the summer, deer hunting in the fall, and for the harvest of other resources as well.

Any negative impact to tribal harvest of natural resources in a particular location is not simply a matter of inconvenience for the tribal member. It has significant cultural implications. A publication about the potential threats of sulfide mining discusses the importance of particular locations in Ojibwa culture.²

The Indian view of land sharpens the importance of maintaining the sustainability and environmental integrity of the relatively small land base left to the tribes. As distinguished from traditional European thinking, the general Indian orientation is more towards space than towards time. Thus the importance of a particular geographic spot can no more be moved to a different location than the importance

in European history of a particular event can be moved to a different time. . . . Commonality of place, as much as of past, defines an Indian tribe. The ties that bind society and culture together are tethered to the earth. If a tribe's traditional lands lose the ability to support life, those ties can badly fray.

In addition, the report entitled "*Cultural and Economic Importance of Natural Resources Near the White Pine Mine to The Lake Superior Ojibwa*" explains why damage to a particular resource or damage to a resource in a particular place, equates to cultural damage.

The harvest of natural resources is not strictly an economic pursuit from the Ojibwa perspective. Ojibwa cosmology links all animate and inanimate inhabitants of the world in personalized relationships. The Anishnabeg (pl. of Anishnabe) treat many beings of the world as kin to humans who give themselves to humans for food, provide healing knowledge, or advise people about the events of their lives. Harvesting rice, venison, berries, maple sugar, and other resources become[s] a critical mechanism by which the Ojibwa perpetuate themselves physically and culturally and regenerate the natural cycle of life. Ojibwas' natural resource use patterns have changed since Americans came to Michigan and Wisconsin after 1820. Still, the Ojibwa cultural identity rests upon a person-to-person relationship with natural resources. . . The Ojibwa fear that processes used to extract metals from the earth threaten these resources.

In particular, there is a concern about the impact of air borne contaminants on plants and fruits used for subsistence or medicinal purposes in the Yellow Dog plains. These concerns have not been acknowledged, explored or analyzed in either the documents that Kennecott has provided or in the DEQ's documents related to the proposed mine. Yet Michigan regulations require that an applicant for a mining permit discuss "land uses" as well as "cultural. . .resources" in its Environmental Impact Assessment. Tribal treaty rights and land use appear to have been overlooked.

Another example in which tribal use appears to have been ignored involves negative impacts to the bedrock outcrop known as Eagle Rock, impacts which are inevitable under the scenario proposed by Kennecott. The Keweenaw Bay Indian Community has indicated that Eagle Rock is important to the tribe. It is disturbing that in light of this information, neither the DEQ nor Kennecott have evaluated the impact that the proposed mine would have on a culturally important site. As described above, the Indian orientation toward space means that particular places often have significant cultural importance. Eagle Rock would be inaccessible to all but Kennecott during the life of the mine, and even after mining is completed, could be considered corrupted by the disturbance beneath the ground and within the rock itself. The impacts to Eagle Rock should be fully explored and documented before any permit decision is made. This recommendation comports with one made by Dr. Dean Anderson, the Michigan Historical Archaeologist.

In general, the EIA is inadequate in its discussion and evaluation of potential impacts to treaty reserved, ceded territory rights. In particular, impacts to natural resource harvest and to Eagle Rock have not been adequately explored. These assessments must be complete before the DEQ can make a fully informed decision about whether to permit this mining proposal. DEQ should work with the Keweenaw Bay Indian Community to determine whether Eagle Rock is a Traditional Cultural Property (TCP) and, if so, what protection should be afforded to that site. In the absence of such an analysis, the DEQ should treat the site as a TCP and analyze impacts on that basis.

A number of comments on specific technical issues related to the draft permits are being submitted under separate cover. If you have any questions about any of these comments, please do not hesitate to contact me.

Sincerely,



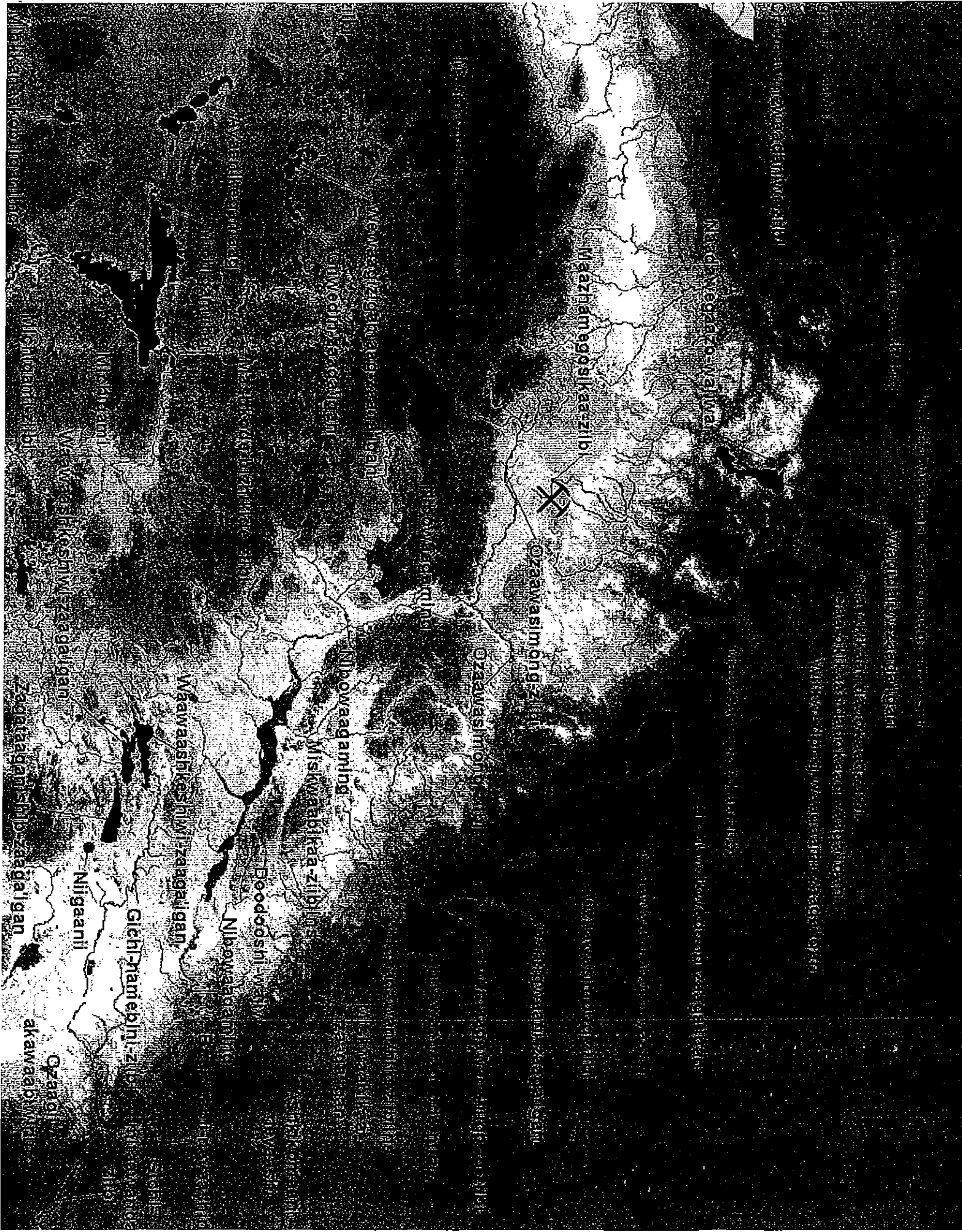
Ann McCammon Soltis
Director, Division of Intergovernmental
Affairs

Attachment

cc: Mr. Hal Fitch, Michigan DEQ
Mr. Joe Maki, Michigan DEQ
John Coleman, Environmental Section Leader

References cited:

1. McClurken, James M., Ph.D. and Larry Nesper, Ph.D., *Cultural and Economic Importance of Natural Resources Near the White Pine Mine to The Lake Superior Ojibwa*, June 1998.
2. Great Lakes Indian Fish and Wildlife Commission, *Sulfide Mining: The Process and the Price*. available at: <http://www.glifwc.org/Publications/sulfidemining.htm>



Maazham gqosika-zilbi

Ozawasimong-zilbi

Ozawasimong-zilbi

Niowaagaming

Miswaa bika-zilbi

Eoodoosni westi

Niowaagaming

Giehl-riamebini-zilbi

Niwaanii

Ozaadi akawaai

— Forwarded by Ross Micham/R5/USEPA/US on 10/23/2007 09:23 AM —



"Ann McCammon-Soltis"
<amsoltis@glifwc.org>

10/22/2007 04:25 PM

To Ross Micham/R5/USEPA/US@EPA
cc

Subject: GLIFWC comments on Yellow Dog treaty rights issues

Hi Ross,

As we discussed on the conference call last Friday, here are GLIFWC comments on treaty rights/ceded territory issues at the proposed Yellow Dog mine site. I have not attached the full report that was appended to the comments because it's a large file. Dan may have a copy, but if you'd like me to send you one, let me know. Please also let me know if you have any questions.

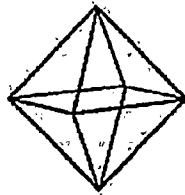
Thanks,
Ann

Ann McCammon Soltis
Director, Division of Intergovernmental Affairs
Great Lakes Indian Fish and Wildlife Commission
100 Maple St.
Odanah, WI 54861
715.682.6619 ext. 102
715.682.9294 FAX



amsoltis@glifwc.org Mine.Permit.Comments.101707.pdf ojbwe01.jpg

Jonathan C. Cherry, P.E.
General Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 908-225-5781
Email: CherryJ@Kennecott.com



Kennecott

Eagle Minerals

SENT VIA CERTIFIED MAIL

October 31, 2007

Ms. Susan LaFerner
Tribal Council President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, Michigan 49908

Dear President LaFerner,

Kennecott Eagle Minerals Company recently received a copy of your October 15, 2007, letter to Steven Wilson at the MDEQ, Office of Geological Survey, commenting on the MDEQ's proposed decision to grant Kennecott's mining permit. In your letter, you indicate that KBIC possesses information and documentation regarding several cultural features identified by KBIC in the area of Kennecott's proposed mining project.

In an effort to address your concerns, we request that KBIC provide us with access to the information and documentation referenced in your letter at your earliest convenience.

Thank you for your anticipated cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jonathan C. Cherry', written over a horizontal line.

Jon Cherry
General Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0941
RETURN RECEIPT REQUESTED

giiwegiizhigookway Martin
Cultural Historic Preservation Officer
Lac Vieux Desert Band of Lake Superior Chippewa Indians
P.O. Box 249
Watersmeet, Michigan 49969

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Martin:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

The Keweenaw Bay Indian Community's (KBIC) Tribal Historic Preservation Officer has indicated that there may be traditional cultural properties in the proposed project area that are relevant to the Ojibwa Nation. EPA has agreed to consult with KBIC about this issue. We would like to know if your Band has a traditional religious or cultural significance attached to a historic property that may be affected by the project and therefore would be interested in consultation with EPA.

Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

A handwritten signature in black ink that reads "Robert D. Tolpa" with "Tolpa" written below the main name.

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0934
RETURN RECEIPT REQUESTED

Edith Leoso
Tribal Historic Preservation Officer
Bad River Band of Lake Superior Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Leoso:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

A handwritten signature in black ink that reads "Robert D. Tolpa" with a flourish underneath.

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0927
RETURN RECEIPT REQUESTED

Tim Funk
Tribal Historic Preservation Officer
Red Cliff Band of Lake Superior Chippewa
88385 Pike Road, Highway 13
Bayfield, Wisconsin 54814

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Mr. Funk:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

The Keweenaw Bay Indian Community's (KBIC) Tribal Historic Preservation Officer has indicated that there may be traditional cultural properties in the proposed project area that are relevant to the Ojibwa Nation. EPA has agreed to consult with KBIC about this issue. We would like to know if your Band has a traditional religious or cultural significance attached to a historic property that may be affected by the project and therefore would be interested in consultation with EPA.

Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

A handwritten signature in black ink that reads "Robert D. Tolpa" with "Tolpa" written below it.

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE :
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0910
RETURN RECEIPT REQUESTED

Jerry Smith
Tribal Historic Preservation Officer
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
13394 W. Trepania Road
Hayward, Wisconsin 54843

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Mr. Smith:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

The Keweenaw Bay Indian Community's (KBIC) Tribal Historic Preservation Officer has indicated that there may be traditional cultural properties in the proposed project area that are relevant to the Ojibwa Nation. EPA has agreed to consult with KBIC about this issue. We would like to know if your Band has a traditional religious or cultural significance attached to a historic property that may be affected by the project and therefore would be interested in consultation with EPA.

Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0903
RETURN RECEIPT REQUESTED

Kelly S. Jackson-Golly
Tribal Historic Preservation Officer
Lac du Flambeau Band of Lake Superior Chippewa Indians
Lac du Flambeau Historic Preservation Office
P.O. Box 67
Lac du Flambeau, Wisconsin 54538

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Jackson-Golly:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

The Keweenaw Bay Indian Community's (KBIC) Tribal Historic Preservation Officer has indicated that there may be traditional cultural properties in the proposed project area that are relevant to the Ojibwa Nation. EPA has agreed to consult with KBIC about this issue. We would like to know if your Band has a traditional religious or cultural significance attached to a historic property that may be affected by the project and therefore would be interested in consultation with EPA.

Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:

WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0521
RETURN RECEIPT REQUESTED

Natalie Weyaus
Tribal Historic Preservation Officer
Mille Lacs Band of Ojibwe Indians
43408 Oodena Drive
Onamia, Minnesota 56359

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Weyaus:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:

WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0897
RETURN RECEIPT REQUESTED

LeRoy DeFoe
Cultural Resources Coordinator
Fond du Lac Band of Lake Superior Chippewa
1720 Big Lake Road
Cloquet, Minnesota 55720

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. DeFoe:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0880
RETURN RECEIPT REQUESTED

Wanda McFaggen
Director/Tribal Historic Preservation Officer
St. Croix Chippewa Tribe of Wisconsin
St. Croix Tribal Center
24663 Angeline Avenue
Webster, Wisconsin 54893

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. McFaggen:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

FOR
Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 9 1 2007

REPLY TO THE ATTENTION OF MAILCODE:

WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0873
RETURN RECEIPT REQUESTED

Tina Van Zile
Director, Natural Resources Department
Sokoagan Chippewa Community
3051 Sand Lake Road
Crandon, Wisconsin 54520

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Van Zile:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

FOR
Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Ann McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 31 2007

REPLY TO THE ATTENTION OF MAILCODE:

WU-16J

CERTIFIED MAIL 7001 0320 0006 1459 0866
RETURN RECEIPT REQUESTED

Kim Green
Tribal Historic Preservation Officer
Sault Ste. Marie Tribe of Chippewa
523 Ashmun Street
Sault Ste. Marie, Michigan 49783

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Green:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

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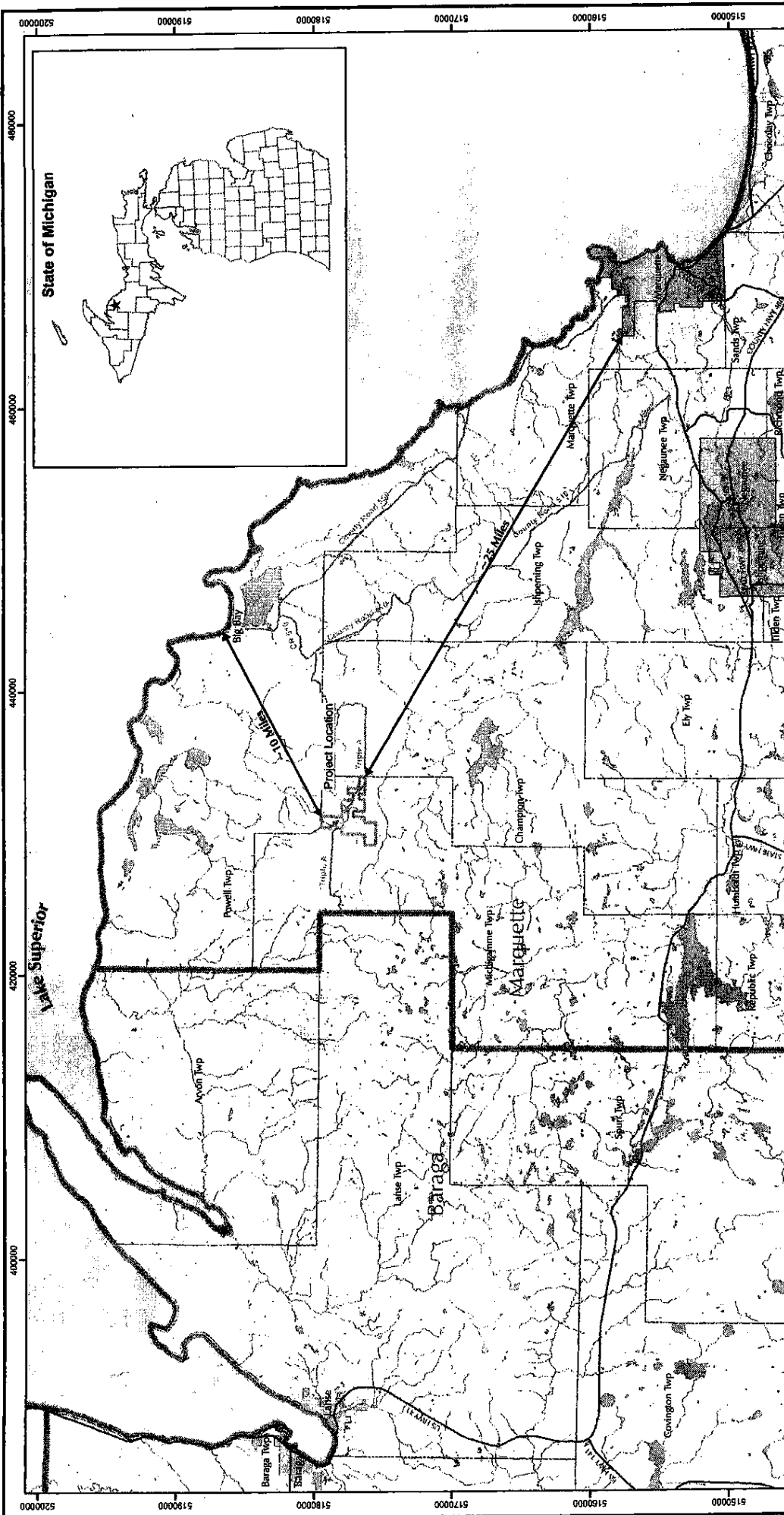
Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

Sincerely yours,

Robert D. Tolpa
Acting Director, Water Division

Enclosures

cc: Sharon Teeple, Inter-Tribal Council of Michigan



State of Michigan



Kenescott
Eagle Minerals

FIGURE 2-1
PROJECT LOCATION

Scale: Date: FEBRUARY, 2006

Prepared by: Foth & Van Dyke By: DAT 04W018

REVISED	DATE	BY	DESCRIPTION

CHECKED BY:	JOS1	DATE:	FEB '06
APPROVED BY:	BVD1	DATE:	FEB '06
APPROVED BY:		DATE:	

Foth & Van Dyke

LEGEND

- Counties
- Minor Civil Divisions
- Kenescott Surface Ownership
- Lakes and Rivers
- Highways
- Major Roads
- Minor Roads

- NOTES**
1. Surface property boundary as of November 18, 2004, supplied by Kenescott Minerals, Inc. (Caledonia, Michigan), August, 2005.
 2. Horizontal datum based on NAD 83/94, August, 2005.
 3. All base information downloaded from Michigan Center of Geographic Information (<http://www.michigan.gov/igp>).
 4. Site Location - Project Site within Sections 11, 812, T60N, R28W, Town of Marquette, Marquette County, Michigan.



NOTES

1. Surface Rights Boundary, Ore Body and Oritopography supplied by Kennecott via Golder Associates Inc., August, 2005.
2. Horizontal datum based on NAD 83 datum.
3. Property Ownership supplied from Kennecott and Coleman Engineering.
4. Site Location - Project Site within Sections 11 & 12, T50N, R29W, Town of Michigan, Marquette County, Michigan.

LEGEND

- Eagle Ore Body
- Location of Surface Facilities
- Kennecott Surface Ownership
- Section Lines
- State Leased Area

REVISIONS

REVISION	DATE	BY	DESCRIPTION

APPROVED BY:

CHECKED BY: JOST	DATE FEB. '06
APPROVED BY: SVD1	DATE FEB. '06
APPROVED BY:	DATE:

Foht & Van Dyke

Kennecott Eagle Minerals

FIGURE 2-4

PROJECT SURFACE OWNERSHIP

Scale: 1" = 100' Date: FEBRUARY, 2006

Prepared by: Foht & Van Dyke By: DAT 04/01/08

KEWEENAW BAY INDIAN COMMUNITY

TRIBE COUNCIL

SUSAN J. LAVERNE, President
MARKUS C. SWARTZ, JR., Vice President
DUNCAN MINTON, Secretary
CARYL L. COONSFORD, SR., Asst. Secretary
M. GAIL MISEGAMI, Treasurer

Keweenaw Bay Tribal Center
16429 Beartown Road
Baraga, Michigan 49908
Phone (906) 353-6623
Fax (906) 353-7540

DOREEN G. BLAKER
JERRY LEE CURTIS
LARRY J. DENOMIE III
WILLIAM E. EMERY
MICHAEL F. LAVERNE, SR.
ELIZABETH "CHIZ" MATTHEWS
ELIZABETH D. MAYO

November 2, 2007

Honorable Jennifer M. Granholm
Governor, State of Michigan
Executive Office
111 S. Capitol Avenue
P.O. Box 30013
George W. Romney Bldg.
Lansing, MI 48909

Re: Comments of the Keweenaw Bay Indian Community, the National Wildlife Federation and the Huron Mountain Club In Opposition to the Proposed Issuance of Mining, Air Use, and Groundwater Discharge Permits, Land Lease Agreement and Mine Reclamation Plan Requested by Kennecott Eagle Minerals Company

Dear Governor Granholm:

The Keweenaw Bay Indian Community, a sovereign nation and federally recognized Indian tribe, having governmental to government relations with the United States of America and the State of Michigan, requests your attention to an environmental disaster that threatens to despoil a pristine and culturally significant area of Michigan's Upper Peninsula.

As you know, the Michigan Department of Environmental Quality (MDEQ) recently proposed to issue three permits (a mining permit, an air use permit, and a permit to discharge wastewater to groundwater), and the Michigan Department of Natural Resources (MDNR) proposed to approve a land lease agreement and mine reclamation plan to allow Kennecott Eagle Minerals Company ("Kennecott") to construct and operate a sulfide mineral mine in the Yellow Dog Plains, Michiganme Township, Marquette County, Michigan. The proposed mine is within the territory ceded to the United States of America in the 1842 Treaty between the predecessors of the Community and the United States of America, which includes the Yellow Dog Plains, and is in the immediate vicinity of the ancestral home of the Community and will significantly and adversely impact lands that are subject to reserved treaty rights of the Community and lands owned by the Community in the Yellow Dog Plains.

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

002727

On October 17, 2007, the Community, together with the National Wildlife Federation and the Huron Mountain Club, filed with the MDEQ and MDNR written comments in opposition to the proposed permits, land lease and mine reclamation plan ("Comments"). A copy of the Comments is enclosed with this letter. The Comments, which represent the combined efforts of over twenty well qualified mining, environmental and engineering experts, demonstrate that the mine, even if operated in accordance with the proposed permits and mine reclamation plan, will be structurally unsafe, is likely to collapse, is likely to significantly and permanently damage the groundwater, surface water, flora and fauna in and around the mine, and will also directly threaten human health. At a minimum, Kennecott has utterly failed in its burden to establish that the mine is safe for workers, the environment and the natural resources.

As described in the Comments, significant adverse impacts resulting from the proposed mine include:

- Destruction of important wetlands and tributaries to the Salmon Trout River;
- Leaching of acids and metals into the groundwater feeding the Salmon Trout River resulting in harm to plants, fish, and wildlife;
- Collapse of the mine (which, again, is directly below the Salmon Trout River), which will permanently alter the river and surrounding wetlands and further contaminate the river with acid and other pollutants from the mine;
- Contamination of groundwater and surface waters due to potentially inadequately designed treatment systems and wastewater discharges larger than estimated by Kennecott;
- Human consumption of contaminated water through local drinking water wells that were not addressed in Kennecott's applications; and
- Blanketing of the surrounding area with airborne particulate matter, nickel, and copper.

These significant adverse impacts to the natural resources of the Yellow Dog Plains resulting from the proposed mine will directly and adversely affect the rights of the members of the Community to hunt, fish and gather in the Yellow Dog Plains, rights reserved to the members of the Community in the Treaty of 1842.

Moreover and of extreme importance to the Community, its members and other members of Ojibwa tribes in northern Michigan, Wisconsin and Minnesota, is that the issuance of the permits for the construction and operation of the Eagle Mine will allow the desecration, impairment and destruction of a sacred area that is known to the Ojibwa as Migi zii wa sin ("Eagle Rock"). Under Kennecott's mining application Kennecott proposes to drill and blast the entrance portal for the mine directly into Migi zii wa sin. In addition, Migi zii wa sin will be

fenced off with very restricted access, if any, to this culturally scared site for the members of the Community and other Ojibwa. Migi zii wa sin has been identified by the Community as a cultural and scared site, which is a Traditional Cultural Property eligible for listing on the National Register. However, Kennecott, contrary to the requirements of the MDEQ rules issued under the applicable mining statute, has not listed Migi zii wa sin as a "cultural, historical or archaeological resource" in its Environmental Impact Assessment ("EIA") as required by the applicable rules. Accordingly, MDEQ must not issue a final decision granting the mining permit for this reason alone.

The construction and operation of Kennecott's proposed mine would also result in the denial of public access to, and essentially the privatization of, State forest land that is held in the public trust and which is currently (and has been for hundreds of years) used by the public for recreational, hunting, gathering, and religious purposes.

Equally important, as the Comments demonstrate, Kennecott has not complied with the law. Its applications omit necessary and material information required to be provided by law. Kennecott has also failed to apply for permits that are clearly required before the project can go forward, including a permit for the draining of wetlands mentioned above and one for the intentional placement of waste into the underground mine after mining has been completed.

In light of the impacts and legal violations noted above, allowing the mine to proceed would violate a number of legal requirements, including the public trust doctrine; the prohibition against issuing a mining permit where an application has not complied with statutory requirements (*see* M.C.L. §324.63205(11)-(12)); and the longstanding prohibition, contained in both the Michigan Environmental Protection Act and Michigan's statute governing nonferrous metallic mineral mining, against allowing pollution, impairment, or destruction of "the air, water, and other natural resources and the public trust in these resources" (*see* M.C.L. §324.1701(1); §324.63205(11)-(12)). MDEQ and MDNR are, therefore, clearly legally *prohibited* from issuing the permits and approving the land lease and mine reclamation plan for the construction and operation of the proposed mine.

Notwithstanding that legal prohibition, and despite all of Kennecott's errors and omissions, MDEQ and MDNR have proposed to issue the permits and approve the land lease and mine reclamation plan based upon Kennecott's flawed analysis of the impacts of the mine. The past conduct of those agencies has not given the Community any reason to believe that they will give proper consideration to the Comments, much less consider the only legally required and proper outcome which these circumstance require – the denial of the permit applications and refusal to approve the land lease and mine reclamation plan.

Therefore, we request that immediate action be taken to ensure that this threat to the environment and human health will not occur. The proposed permits must not be issued, the land lease must not be entered into and the mine reclamation plan must not be approved and Kennecott's mine must not be allowed.

Honorable Jennifer M. Granholm
Governor, State of Michigan


4

October 31, 2007

If the MDEQ intends to issue a final decision granting to Kennecott a permit to construct and operate the mine, that action will have a substantial direct effect on the Community and, as such, will constitute, "state action significantly affecting" the Community's interests.

Accordingly, before issuing its final decision granting a mining permit to Kennecott under Part 632, the Community hereby requests consultation with the State of Michigan concerning this proposed action, as provided for under the terms of the 2002 Government-to-Government Accord, dated October 28, 2002, between the State of Michigan, the Community and other federally recognized Indian tribes.

Sincerely,



Susan J. LaFornier
President

cc: Chairpersons, Presidents, and Ogema of the Michigan Tribes

002730



November 14, 2007

**Cultural Division
Repatriation
Program**

523 Ashmun Street
Sault Ste. Marie
Michigan

Robert D. Tolpa
Acting Director, Water Division
United States Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Dear Mr. Tolpa,

49783

Phone

906.635.6050

Ext 26140

Fax

906.632.7059

It is the contention of the Sault Ste. Marie Tribe of Chippewa Indians (SSMTCI) that the U.S. Environmental Protection Agency (EPA) has not appropriately consulted with the SSMTCI or any other Native American Nations with Historic presence relative to the Kennecott Eagle Minerals Mining Project; Marquette County, MI.

The Sault Tribe and all other Ojibwe/Chippewa Nations have a deeply rooted cultural and historic association with the area of the proposed project that cannot be disputed. Consultation and cooperation with federal agencies forms a vital part of our efforts to protect sacred, historic and cultural places, especially on federal lands and other public lands. We look to the federal government and its agencies to fulfill their legislated and constitutional responsibilities to the tribes, more than ever in regard to the protection and preservation of our cultural resources. However we are deeply saddened by the low level of effort that was displayed by the EPA to assist and cooperate with us on this undertaking during the initial stages.

A telephone call or letter notifying us of this undertaking would have assured us that our concerns with regards to the environment and potential adverse affect to the area in question of the project were being addressed. We were never part of the decision-making process with this project.

It is highly likely that a burial site(s) and other Traditional Cultural Properties exist within the area in question. The remains of our Ancestors and the places where they are buried hold a special place in our hearts. The maintenance of our relationship with our Ancestors is a principal part of our cultural beliefs and practices. This entails ceremonial, spiritual and physical protocols that would not be maintained before, during or after this project.

We are also concerned about the fact that certain protocols regarding consultation were possibly not followed per the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.

We are in complete opposition to any proposed project that would compromise and/or adversely affect the environment, our Mother the Earth. We would respectfully request in writing the future intentions of the EPA regarding this project or any other.

Sincerely,

A handwritten signature in black ink, appearing to read "Cecil Pavlat Sr.", written in a cursive style.

**Cecil E. Pavlat Sr.
Cultural Repatriation Specialist
Sault Ste. Marie Tribe of Chippewa Indians**

cc: Summer Cohen, KBIC

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

TRIBAL HISTORIC PRESERVATION OFFICE

P.O. Box 249, Pow Wow Trail Watersmeet, MI 49969

Phone: 906-358-4577 Fax: 906-358-4850

copy
LJH

November 19, 2007



RECEIVED

NOV 30 2007

LAC BRANCH
EPA REGION 5

United States EPA
Attn: Robert D. Tolpa/Water Division
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Mr. Tolpa,

We are in receipt of your letter dated October 31, 2007 in regards to the following review: Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002.

The LVD THPO (Tribal Historic Preservation Office) is officially requesting that we be made a consulting party in this project, as well as issuing the following statement on behalf of our Nation:

The above referenced area contains cultural properties associated with our Tribe, as Lac Vieux Desert was once affiliated with the Keweenaw Bay Indian Community (prior to Federal Recognition in 1988). We continue to work jointly and cooperatively with The Keweenaw Bay Indian Community in areas of the protection of our cultural and historic properties.

I will await your reply on this important and critical issue.

Sincerely,

Giiwegiizhigookway Martin

Giiwegiizhigookway Martin/THPO & NAGPRA Representative
Ketegitigaaning Ojibwe Nation (Lac Vieux Desert)

Cc: James Williams, Jr., Tribal Chairman

KEWEENAW BAY INDIAN COMMUNITY

2007 TRIBAL COUNCIL

SUSAN J. LAFERNIER, President
WARREN C. SWARTZ, JR., Vice-President
TONI J. MINTON, Secretary
GARY F. LOONSFOOT, SR., Asst. Secretary
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MICHAEL F. LAFERNIER, SR.
ELIZABETH "CHIZ" MATTHEWS
ELIZABETH D. MAYO

Assessment of Migi zii wa sin (Eagle Rock)

In November 2005, the KBIC Tribal Historic Preservation Office received the unique status as an official Tribal Historic Preservation Office (THPO) from the National Park Service under Section 101 (d) (2) of the National Historic Preservation Act. This distinction, as an official Tribal Historic Preservation Office, enables the Keweenaw Bay Indian Community to take over the responsibilities the Michigan State Historic Preservation Office had on the Keweenaw Bay Indian Community Reservation land in regard to the protection of cultural resources.

There are many areas of cultural preservation the department is responsible for and one of them is Section 106 of the National Historic Preservation Act compliance issues with Federal, State and Tribal entities on the L'Anse Reservation and in ceded Territory. A construction project or any other "ground disturbing activity" that is funded with federal money or is in need of a federal permit must comply with Section 106 of the NHPA. Usually an archaeological survey is requested to see if there are any historic properties such as archaeological sites, mounds, burial grounds, historic homesteads etc. that will be affected by the proposed project activities. The THPO has ongoing Section 106 compliance issues with the Federal Highway Administration/Michigan Department of Transportation, Federal Communications Commission, Army Corp of Engineers, Federal Energy Resource Commission, Indian Health Service, and Bureau of Indian Affairs. Under the provisions of the National Historic Preservation Act of 1966, (16 U.S.C. 470) historic preservation activities center on the identification and preservation of significant cultural features located within the exterior boundaries of the L'Anse Reservation.

The KBIC THPO also reviews projects subject to National Historic Preservation Act Section 106 Review that fall within Ojibwa historic homelands and the ceded territory. Annually, the KBIC THPO reviews approximately thirteen hundred projects from various agencies.

The requirements of R 425.202 Environmental Impact Assessment, i.e., identification and description, analysis of potential impacts, mitigation, analysis of potential cumulative impacts, and analysis of prudent and feasible alternative, specifically apply to “cultural, historical and archaeological resources”, including those that may be eligible or are listed on the National Register of Historic Places.

This assessment is designed to provide guidance to governmental agencies with the basic information necessary to determine whether the proposed project has the likelihood of affecting buildings, structures, objects, sites, and districts that are eligible for or listed in the National Register of Historic Places. The identified properties in this report fall under one or more of the following categories, American history, architecture, archaeology, engineering, culture or support the eligibility of other sites. This assessment will not include those areas that have a low potential to contain historic properties while focusing more attention on areas likely to contain these resources.

Purpose and Objectives of the Assessment

Prior to the year 2000, the National Historic Preservation Act (NHPA) did not protect properties that were not officially listed on the National Register of Historic Places (National Register). In 2000, the NHPA was amended to recognize and protect properties which met the criteria for eligibility and listing on the National Register, without having to be actually listed on the National Register. The reason this addition to NHPA was to help protect sites which were eligible, but were not meant to be public attractions. This amendment to NHPA was important to Native Americans in order to protect sites such as sacred religious sites currently being used by a Native American Tribe, a culturally sensitive landmark that held ties to a tribes view of Creation, and burial mounds that needed to be protect from souvenir collectors. Because sites such as these do not have to be listed to be protected under the NHPA, the National Register is not 100%

reliable in identifying historic sites protected under the NHPA. In order to insure that these sites are identified prior to project activity, governmental agencies should make an effort to contact all tribes with historic ties to that area.

The purpose of this assessment is to identify archaeological, historical and cultural sites that (i) may be eligible for listing on the National Register for Historic Places, including sites having significance to the Keweenaw Bay Indian Community and its members, and (ii) should, therefore, have been included in Kennecott Eagle Mining Company's (Kennecott) Environmental Impact Assessment for the Eagle Rock Project.

The objectives of this assessment are to protect and preserve those sites which are eligible for protection under NHPA according to Federal Guidelines, and to determine what actions should be taken in order to ensure that integrity of any such identified sites are not compromised by the activities of the proposed project.

Research Methods

KBIC THPO operates under the guidelines of the National Historic Preservation Act and is dedicated to protecting cultural and sacred sites located both on the reservation and within historic homelands of the Anishinaabe people. Because Keweenaw Bay is not the original place where the Ojibwa people originated, the KBIC THPO researches those areas along the way of the "Great Migration" (from the eastern Atlantic seaboard to Michigan, Wisconsin and Minnesota). The KBIC THPO also looks closely at territory ceded to the United State, under the Treaty of 1842 between the federal government and the Chippewa (Treaty with the Chippewa), which itself could be considered eligible for the National Register in that treaties written by the Federal Government have documented that these areas are the current home territories of the local bands of Chippewa who were signatory to those treaties.

The KBIC THPO regularly researches cultural uses of the land by the Ojibwa people. Oral documentation is used to identify sites and obtain information regarding the background of the identified area. The KBIC THPO also uses documentation of historical records and from on-site

field surveys. With regards to the Kennecott proposed mine site, the KBIC THPO researched historical documents, participated in field survey, and met with Native Americans to discuss cultural uses of the area.

Project Location

The proposed mine is located in the Yellow Dog Plans, Michigan and within the territory ceded to the United States of America by predecessors of the Keweenaw Bay Indian Community under the Treaty with the Chippewa.

Archaeological Resources

Kennecott Eagle Mining Company Environmental Impact Assessment (EIA): The KBIC THPO has reviewed the EIA submitted to the Michigan Department of Environmental Quality by Kennecott as a requirement under the Mining Permit Application process. The EIA included a brief discussion of Cultural, Historical and Archeological Resources-Section 3.16, attempting to meet requirements of R 425.202(2) (ee). Archaeologists from BHE Environmental, Inc. (BHE) of Cincinnati Ohio performed a Phase I Archaeological Survey of approximately 73 acres of land. An easily accessible portion of a 199-acre study area was subject to a cursory visual inspection for surficial evidence of historical, archeological and cultural properties. BHE's Phase I survey states that it involved a variety of archaeological and archival methods, including a literature review pertaining to the region; an inventory of all previously identified cultural resources within one mile of the project area, and a field reconnaissance of the project area. Field assessments are stated as occurring in June 2004 and July 2005.

BHE concluded that their survey determined that no cultural properties potentially eligible or eligible to be listed on the National Register existed within the proposed construction footprint of the project. The visual inspection of the easily accessible portions of a 199-acre study area did delineate three unrecorded areas of cultural activity; one prehistoric site (20MQ229 & 20MQ230) and a pair of logging camps of indeterminate age and association. BHE determined that none of the sites documented would be affected by the project activities.

20MQ251: In an investigation by the KBIC THPO in the summer of 2006, a well known cultural site located at the top of Eagle Rock that had been previously identified by several local members of the Keweenaw Bay Indian Community, was investigated by Jim Paquette, a well respected amateur archeologist, accompanied by Summer Cohen, Tribal Historic Preservation Officer, and Cynthia Pryor, a local resident of the Yellow Dog Plains. This location was documented and reported to the State Historic Preservation Office (SHPO) on December 10, 2006, and was assigned the archaeological site reference number 20MQ251 by the SHPO. Eligibility for listing on the National Register was not determined as is the case with most sites identified and reported to the SHPO. See attachment A.

Silver Lake Basin Sites: A few miles south of Eagle Rock lies the Silver Lake Basin which was flooded in the early 1900's by a local mining company for the purpose of producing hydroelectric power which also inundated a small natural occurring lake in northern Marquette County. Recently, a flood occurred at this site and a dam was breached by the water overflow. By the next morning the water levels in Silver Lake Basin had dropped 15 feet; by the time the flood subsided the entire contents of the basin had spilled leaving only the naturally occurring lakes. Due to this drawdown of water, and previous events that caused the water levels to be lowered, 50 archaeological sites have been documented and reported to SHPO by James Paquette. See attachment B. It is believed that the sites at Silver Lake are Late Pleistocene/Early Holocene in age, and that the area surrounding Silver Lake including the Yellow Dog Plains and the Eagle Rock area would have been intensively utilized by these early Native American hunter/gatherers. Silver Lake is considered as being the most densely utilized non-quarry areas in North America during Late Pleistocene/Early Holocene times. The Silver Lake sites consist of concentrations of débitage, fire-cracked rock, hammerstones, bifaces, unifaces, scrapers, cores, gravers, and projectile points. It is believed that this collection provides valuable scientific information regarding what appears to be the earliest occupation of Michigan's Upper Peninsula. The Silver Lake Basin remains one of the densest concentrations of early sites, located away from primary quarry areas, in the State of Michigan, if not the Upper Midwest. The dispersed locations of these sites within the Silver Lake Basin suggest that a reoccurring, and possibly complex record of late Paleo-Indian/Early Archaic occupation of the basin exists, (Buckmaster, Carr; 2004).

KBIC THPO On site-Pedestrian Survey Description: In June of 2007, KBIC THPO conducted a “surface walkover of the Eagle Rock and surrounding area for identification of cultural features”. As a result a report was completed, the “Preliminary Surface Cultural Resource Assessment” (PSCRA) which identified the following:

1. Extensive clear-cut areas and the disturbed ground surfaces from the previous commercial logging activities;
2. Wide-spread surface ground destruction from the recent KEM Project;
3. Two shallow semi-circular depressions at UTM coordinates (NAD27) 16 432616E 5177381N;
4. A find spot of a quartz flake at UTM coordinates (NAD 27) 16 431707E 5177332N;
5. Another quartz flake or cobble core located at UTM coordinates (NAD 27) 16 431723E 5177325N;
6. Remnants of an a man-made trail worn into the face of a slope at UTM coordinates (NAD 27) 16 431648E 5117729N and (NAD 27) 16 431759E 5177204N;
7. A large man-made rock pile and several depressions in the side of a slope nearby at (NAD 27) 16 431667E 5177282N.
8. The Eagle Rock site was noted as 20MQ251

Since the purpose of the Eagle Rock PSCRA was to locate and document the presence of potential cultural features and artifacts located within the defined study area, no attempt was made, at that time, to evaluate the degree of cultural significance of any of the suspected features and/or artifacts found during the surface survey. However, the information gathered as a result of conducting this walkover investigation of the Eagle Rock area does provide additional documentation and evidence that significant cultural resources—in addition to the Eagle Rock site (20MQ251)--currently exist within the boundaries of the study area.

In June, 2007, Kennecott requested a joint investigation of the site with KBIC THPO and June 29, 2007 was agreed upon for that purpose. On June 28, 2007, KEM cancelled the joint on site investigation and did not renew its request.

Historical Resources

Through the Ojibwa oral tradition and research by Fred Rydholm and published in his book, *Superior Heartland: A Backwoods History*, Vol. I, the AAA Road has been identified as a potential historic resource. The Triple AAA Road, which was constructed in 1856 by the Civilian Conservation Corps, is the first State Highway built in the Upper Peninsula by the State of Michigan. Not only was it a highway, but due to a mistake in surveying, rather than following the fifth correction line, the surveyors accidentally mistook an Indian Trail for the route and therefore, the road was built on the trail. Remnants of the trail still remain, as noted by preliminary investigations of the KBIC THPO and reported in the PSCRA, trail segment along the salmon trout river, just yards from the AAA road.

Cultural Resources

The NHPA defines a Traditional Cultural Property (TCP) as a historic property whose significance derives from the role the property plays in a community's historically rooted beliefs, customs and practices. TCP's become eligible for inclusion in the National Register because of their association with the cultural practices and/or beliefs of a living community. They are eligible for listing on the National Register because of the historical time of the practice and the importance in the continuing cultural identity of the community (National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties). To Native Americans cultural survival and cultural revitalization are contemporary social issues. For some traditional practices—for example, those that involve public demonstrations such as dance rituals—documentation is not too difficult to obtain in order to establish how long an activity has been practiced with a traditional cultural property. Others practices are not so easily established due to the nature of the practice in Native American society, they are not publicly announced and are only known through word of mouth in such cases. The only documentation for these cultural sites are statements from tribal members who can verify the existence of the cultural sites associated with these practices.

Interviews with Edward Benton-Banai and reference to “The Mishomis Book: The Voice of the Ojibway”, authored by Mr. Benton-Banai, and “The Mide wiwin or “Grand Medicine Society” of the Ojibwa Seventh Annual Report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution, 1885-1886”, by Walter James Hoffman in 1891, history tells us that the Ojibwa followed a route from the eastern Atlantic seaboard along the Great lakes and through the Upper Peninsula. At each stopping place, the Mide wiwin society would build their Mide Lodge and hold their sacred ceremonies. There is a place on the L’Anse Reservation where the Mide Lodge was built. This is important because from this site, oral tradition tells us that in the distance to the east, can be seen the silhouette of both an otter and a turtle, these are distant mountain tops. Between these mountains further to the east stand two high spots which are significant to the Ojibwa people. Migi zii wa sin is one of these places.

Tribal members of the Keweenaw Bay Indian Community have reported several medicinal plants which are harvested or harvestable on the Yellow Dog Plains and at Eagle Rock. Among the most common would be the blueberries (miinan). Tribal members have also stated that they have hunted for deer (waawaashkeshi), partridge (beni) and fish (giigoonh) in the Yellow Dog Plains. Still others, have reported using the area known as Migi zii wa sin as a place for traditional ceremonial activities. Keweenaw Bay Indian Community Conservation Officers have verified the above fact and have stated that they have observed tribal members in the Yellow Dog Plains area participating in ceremonial practices and exercising their hunting, fishing and gathering Treaty Rights.

In general Ojibwa people look at the world differently than the Europeans. Not every thing in the European world view is considered to be an animate object, whereas in the Ojibwa world view, many of those European inanimate objects are viewed to be animated, or to have a spirit; trees, animals, the earth, mountains. Migi zii wa sin is one of those places that is viewed by the Ojibwa as animate, having a spirit, not just the surface, the entire area.

Harland Downwind, Eddie Benton and Dorothy Sam, Medi priests and priestess, respectively, are all educators and leaders in Ojibwa Traditional and religious culture and have widespread influence throughout the United States and Canada. They have all been sources of information

on Ojibwa cultural and spiritual beliefs for many years and for many bands of Ojibwa people and other tribes. All of these individuals, along with several others, have made the journey to Migizii wa sin (Eagle Rock) in order to make a determination as to its significance. Each person examined the area and listened to local people who had used the site and through memory of oral tradition have made determinations regarding the sites cultural use and how it should be cared for. Each has stated that this is indeed a sacred place and must not be damaged or destroyed by the Kennecott mining project nor should Native Americans be barred from having direct and continuous access to Migizii wa sin. See Attachment C.

Migizii wa sin (Eagle Rock) is not only ground zero for Kennecott Eagle Mine facility, but will be subject to the drilling and blasting of the portal of the proposed mine, which will be located directly below this rock outcrop, which will assuredly cause damage, if not destruction, of the Migizii wa sin. Moreover, the mining proposal plans that this area will be completely fenced off from public access, thereby preventing Native Americans from accessing this sacred site. Accordingly, the people of the Keweenaw Bay Indian Community and from other Ojibwa communities such as the Lac Vieux Desert Band, the Sault Ste. Marie Band of Ojibwa are extremely concerned that the sacred site, Migizii wa sin, will be damaged or destroyed by the mining activity and that they will be prevented from having access to this place of great cultural significance to them.

In documenting information related to the cultural significance of sites located in the Yellow Dog Plains, information related to cultural activities has not been actively documented because there simply was no reason for those who use this area for cultural and treaty purposes to reveal the existence or the significance to anyone, of sites potentially eligible for listing on the National Register, until Kennecott announced its mining plans which would have considerable adverse consequence to this area of cultural significance to the Ojibwa people .

However, the evidence presented by this assessment establishes that without a doubt there has been Native American activity within the vicinity at Migizii wasin (Eagle Rock). Further evidence, not documented but well known to the KBIC THPO, are current campsites, fire pits, ceremonial offerings tied to trees, and several trails leading up and down the entire area of

Migizii wasin (Eagle Rock). The place identified as site 20MQ251 (pit feature), is the only readily identifiable evidence of historic or archaic activity at the site. Ojibwa traditional leaders have identified this pit as a cache in which objects were stored during activities which took place at this site long ago but are no longer used today during ceremonies.

In regards to cultural significance of this site, again, this site holds deep sacred ties to the Ojibwa in that it is currently used today and also holds a connection to the Mide religion, specifically the lodge which once stood at Keweenaw Bay (Eddie Benton-Benai). This property does indeed have an integral relationship to traditional cultural practices and beliefs of the Ojibwa people, this cannot be ignored.

Although the area has been logged off several times, still, the integrity of the site remains, we know this because the Ojibwa who hold ties to this site still hold beliefs and carry out ceremonial activities at the site. Although physical change of the property has taken place over time, in the logging of the site, those who hold ties to the site still recognize its identity as a sacred site because the surroundings have changed very little. However, Migi zii wa sin (Eagle Rock) would definitely be damaged or destroyed if it were to become the center of a 24-hour mining operation and prohibited from religious use by the people of the Keweenaw Bay Indian Community if it was to be fenced off for 42 years as currently proposed by Kennecott.

Application of National Register Criteria for Traditional Cultural Property

KBIC THPO has applied the National Register Criteria for Evaluation to the site referred to as Migi zii wa sin (Eagle Rock). There are four categories of criteria that a site can come within to be considered eligible for listing on the National Register. In applying the criteria to Mig izii wa sin, the site qualifies as eligible under one of the four criterion. Migi zii wa sin carries an association with events that have made a significant contribution to the broad patterns of the history of the Ojibwa people. Through oral tradition, we know that this site has made a significant contribution to the broad pattern of Ojibwa history in the establishment of the Mide lodge on the reservation at Keweenaw Bay. Through oral tradition, it is also well known that the Great Migration was a result of a prophet who foretold the destruction of the Anishinaabe Nation

if the people stayed on the Eastern Seashore. Furthermore it is well known that the Great Migration of the Anishinaabe is tied to the establishment of the Mide at different locations, including the Upper Peninsula of Michigan at Keweenaw Bay. Today, people of the Keweenaw Bay Indian Community travel to this sacred site to participate in ceremonial activities related to the establishment of this site.

It cannot be argued that Migi zii wa sin, as sacred site, should be excluded from consideration for eligibility to the National Register because of its religious purposes. As recognized by National Register Bulletin 38, the fact that this site is used for religious purposes by the Ojibwa and is described in terms that are classified as religious by non native people, are actually expressions of traditional cultural beliefs and are intrinsic to the continuation of traditional cultural practices by Native Americans. Moreover, if this site were excluded from consideration for that purpose, this would result in discrimination against the Ojibwa people by effectively denying the legitimacy of their history and culture.

Conclusion


From all information considered it is apparent that this area has been used by Native People from prehistoric time to the present. According to McClurken and Nesper, Cultural and Economic Importance of Natural Resources Near the White Pine Mine to The Lake Superior Ojibwa, “all parts of the ceded territory and even beyond were used by the Ojibwa in their traditional lifestyle. They used hundreds of natural resources readily available from the land in daily living, and these customs have been passed on from generation to generation. Today, the Ojibwa still utilize natural resources from the land, but due to changing times and economy, available resources are becoming scarce.” Once these resources are no longer available, and no longer used, the Ojibwa in this area will cease to exist as a people but will become descendents of the Ojibwa; “their cultures will become bookshelf memory and nothing more”, (Earl Otchingwanigan, KBIC Tribal Elder). When applying the National Register Criteria to the Migi zii wa sin (Eagle Rock, it is evident that this sacred place to the Ojibwa is indeed eligible to be listed on the National Register of Historic Places. As the criteria in documenting eligibility of sites to the National Register, when referring to a Traditional Cultural Property such as Migi zii

wa sin (Eagle Rock), significance derives from the role the property plays in a community's historically rooted beliefs, customs and practices. To the Ojibwa people Migi zii wa sin (Eagle Rock) is not just an outcropping on the Yellow Dog plains, but a sacred place holding a spirit within.

Proposed Action

The mine should not be constructed or operated on the land which includes Migi zii wa sin and access to Migi zii wa sin must not restricted.

Tribal Historical Preservation Office

By 

Tribal Preservation Officer

References

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Statements

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Downwind, Harlan (2006), *Mide Priest: Cultural use at Eagle Rock, Yellow Dog Plains* (Statement).

Dudley, Rob (2006), *Cultural use at Eagle Rock, Yellow Dog Plains 1970's* (Statement).

Lussier, Beverly (2007), *Keweenaw Bay Indian Community Tribal Member, Elder: Cultural use at Eagle Rock, Yellow Dog Plains* (Statement).

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Pavlat, Cecil (2007), *Sault Ste Marie Tribe letter to United States Environmental Protection Agency, Region 5, regarding cultural significance of Eagle Rock, Yellow Dog Plains.*

Sam, Dorothy (2006), *Mide Priestess: Cultural use at Eagle Rock, Yellow Dog Plains* (Statement).

Tilson, Tim J. (2007), *Keweenaw Bay Indian Community Tribal Member, Conservation Officer: traditional uses at Eagle Rock, Yellow Dog Plains* (Statement).

Attachment A

State Site 20MQ251
Michigan Archaeological Site Form

MICHIGAN ARCHAEOLOGICAL SITE FORM

SITE NAME: Eagle Rock

OTHER NAMES OR NUMBERS: refer to "Work Area A (The Bedrock Outcrop)" from BHE Environmental, Inc Phase I Survey report PN 1595.002 for additional information on 2004-2005 archaeological survey work in this area (see reference to this document in the following site description section).

SITE DESCRIPTION: To be consistent with previous archaeological investigations, the general site description of this specific area is quoted from page 23 of the **September 2005 PHASE I ARCHAEOLOGICAL SURVEY OF CA. 73 ACRES FOR KENNECOTT MINERALS COMPANY, EAGLE PROJECT, MARQUETTE COUNTY, MICHIGAN (Prepared by BHE Environmental Inc., 11733 Chesterdale Road, Cincinnati, Ohio)**. As such, the Eagle Rock site is described as an "area situated atop an elevated knob overlooking the Salmon Trout River terraces and floodplain. This landform, which rises off of the surrounding terrace approximately 20 ft, contains an area of exposed bedrock along the southern and western fringe of the small plateau."

COUNTY: Marquette County

TOWNSHIP NAME: Michigamme

TWP/RANGE/SECTION: T.50N.-R.29W.

QTR-SECTION: SW ¼ of the NW ¼ of Section 12

UTM COORDINATES WITH DATUM YEAR: (NAD 27)

November 24, 2006 GPS wpt that marks the location of the pit feature that is described in this report **16 432474E 5177157N

**Also, see Figure 7 for information on additional site GPS coordinates.

DIRECTIONS FROM CLOSEST STATE OR COUNTY ROAD INTERSECTION:

CLOSEST BODY OF WATER: Salmon Trout River

SITE SIZE (length x width or diameter with unit of measurement): approximately 5 acres

FIELD EVIDENCE (surface scatter, stratification, features, exposed by construction, etc): visits to the site area by James R. Paquette on September 1 and November 24, 2006 documented the presence of an obvious cultural pit feature on the site (see Figures 1-5), plus an associated scatter of historic metal fragments both near and within the feature (see Figure 6). The pit appears to be quite old based on its current condition/appearance. It appears to have been originally square in plan-view and measures approximately 136 cm (north wall to south wall) x 133 cm (west wall to east wall), although the partially collapsed condition of the walls makes it difficult to accurately measure the original dimensions of the pit. Its present

depth is approximately 65 cm, but it is currently filled with a matting of leaves and forest debris (see figures 4 & 5).

In addition to the pit feature, non-destructive electronic subsurface testing/scanning in nearby areas atop the elevated Eagle Rock knob by Paquette on September 1, 2006 located several readings/indications of the subsurface presence of ferrous & non-ferrous metal objects/artifacts throughout the site area. No attempt was made to recover and identify the buried objects due to this being State of Michigan property.

FIELDWORK (institution, principal investigator, year, site visit/survey type/excavation):
See referenced BHE Environmental, Inc report.

In addition, on August 16, 2006, James R. Paquette visited the Eagle Rock site area with Summer Cohen/Keweenaw Bay Indian Community Tribal Historic Preservation Officer & NAGPRA, Cynthia Pryor/Executive Director of the Yellow Dog Watershed Preserve, Rico Torreano/Negaunee and Ben Vanni/Negaunee. A primary purpose of this visit to the area was to bring to Paquette's attention the suspected presence of cultural materials at the Eagle Rock site that had remained unidentified during previous archaeological investigations in the area. During the August 16 site visit, Cohen and Pryor showed Paquette the location of an obvious cultural pit feature that was located in a natural cut in the bedrock in the western area of the site (see Figures 2 & 3).

The Eagle Rock site area was subsequently re-visited by Paquette on September 1, 2006 and November 24, 2006 for the purpose of further investigating and evaluating the pit feature and the immediate surrounding site area for potential archaeological site registration with the State of Michigan. During Paquette's visits to the site area, photos and measurements were taken of the feature, as well as a GPS wpt for Michigan site form documentation.

SITE INTEGRITY OR CONDITION: the pit feature needs to be further professionally investigated to evaluate its overall condition and state of preservation. Also, further investigation is needed to determine the context (and identity) of the subsurface ferrous and non-ferrous metal objects that were noted during the non-destructive subsurface scanning by Paquette on September 1, 2006.

COLLECTIONS (private or institutional): None; no artifacts were recovered.

COMPONENTS (list period and site function for each): the pit feature appears to represent an historic component at the site based primarily on the presence of the metal fragments that are apparently associated with the feature. Preliminary indications are that this cultural feature and the associated heavily oxidized tin/iron fragments may represent the remains of a former storage or cache pit at the site. However, further evaluation of this feature is needed to better determine its original purpose.

In addition, future recovery and analysis of the buried ferrous and non-ferrous metal objects noted during the non-destructive electronic subsurface testing by Paquette is needed to determine the associated cultural component(s).

DATES (list radiocarbon dates with lab numbers and associations):

HUMAN REMAINS PRESENT? NO YES _____

OWNERSHIP (LIST NAME OF PERSON OR AGENCY):

STATE GOVT AGENCY: State of Michigan

NATIONAL REGISTER SIGNIFICANCE:

 X More information needed for evaluation

Person making this evaluation/date:

James R. Paquette/December 9, 2006

WHAT MORE INFORMATION IS NEEDED, OR WHY IS SITE ELIGIBLE OR INELIGIBLE? Based on the presence of the above described cultural pit feature on the site, plus the presence of scattered subsurface ferrous and non-ferrous metal objects also being located on the site, additional archaeological work is required to better evaluate the Eagle Rock archaeological site for its eligibility for the National Register of Historic Places/JRP.

COMMENT: The cultural pit feature described and documented in this report would be very obvious to anyone visiting the Eagle Rock site, and its exclusion from the September 5, 2005 BHE Phase I Archaeological Survey Report (Work Area A) is surprising. This oversight in itself warrants a professional archaeological "reevaluation" of the Eagle Rock site area for NRHP eligibility by the State of Michigan /JRP.

THIS RECORD BY:

NAME: James R. Paquette 1022 Cedar Street, Negaunee Michigan 49866

DATE: December 9, 2006



Figure 1



Photo taken November 24, 2006
Eagle Rock pit feature/looking north

Figure 2

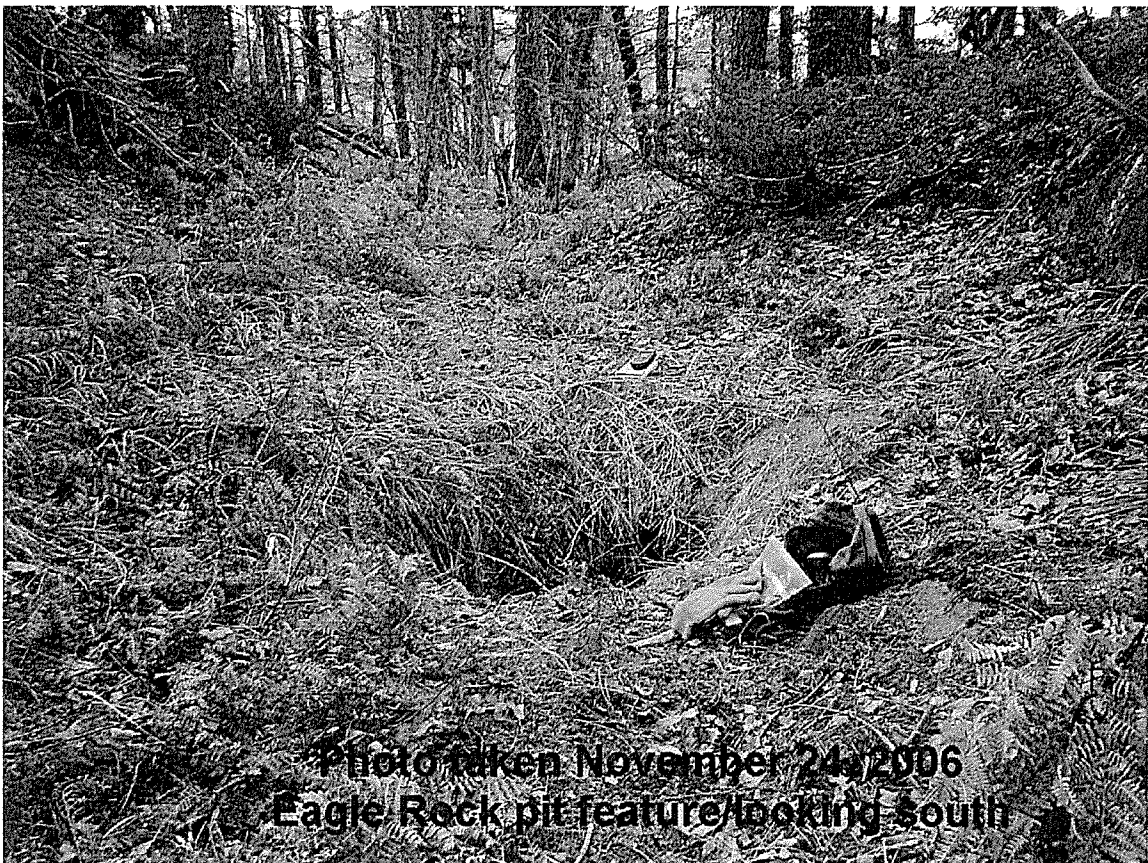


Photo taken November 24, 2006
Eagle Rock pit feature/looking south

Figure 3



Figure 4



Figure 5



Figure 6



Figure 7

Attachment B

Recorded Archaeological Sites on the Silver Lake Basin (Marquette County, Michigan)

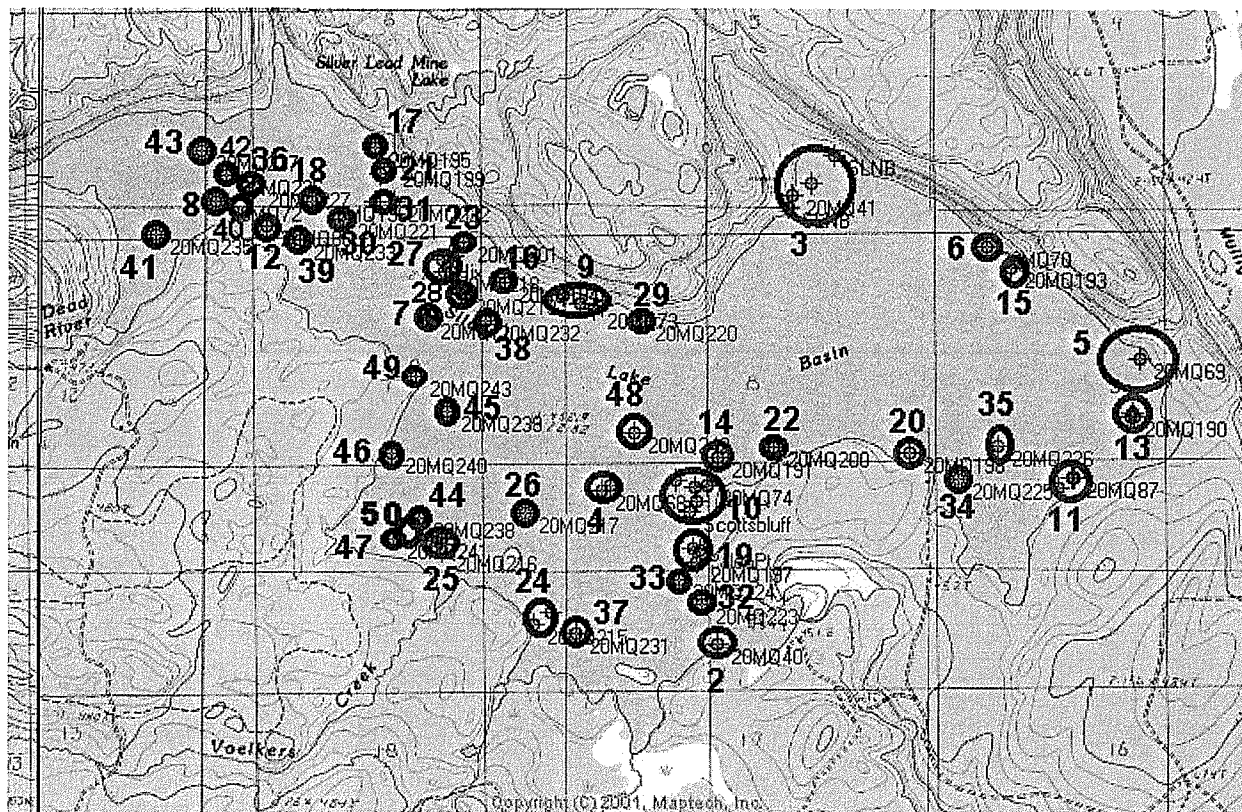
**Recorded Archaeological Sites on the Silver Lake Basin
(Marquette County, Michigan)**

Site Name	Site Number	Recorder
1.) Silver Lake Water's Findspot	20MQ35	Paquette 1986
2.) Silver Lake Dam	20MQ40	Paquette 1987
3.) Silver Lake North Bay	20MQ41	Paquette 1987
4.) Silver Lake #3	20MQ68	Paquette 1989
5.) Silver Lake #4	20MQ69	Paquette 1989
6.) Silver Lake #5	20MQ70	Paquette 1989
7.) Silver Lake #6	20MQ71	Paquette 1989
8.) Silver Lake #7	20MQ72	Paquette 1989
9.) Silver Lake #8	20MQ73	Paquette 1989
10.) Silver Lake #9	20MQ74	Paquette 1989
11.) Silver Lake Marta	20MQ87	Birkholz 1993
12.) Silver Lake West Bar	20MQ86	Birkholz/Paquette 1993
13.) Silver Lake Allison	20MQ190	Paquette 2003
14.) Silver Lake Rock Point	20MQ191	Paquette 2003
15.) Silver Lake North Shore	20MQ193	Paquette 2003
16.) Silver Lake #10	20MQ194	Paquette 2003
17.) Silver Lake Silver Lead Creek 1	20MQ195	Paquette 2003
18.) Silver Lake Coles Creek	20MQ196	Paquette 2003
19.) Silver Lake Arrowhead	20MQ197	Paquette 2003
20.) Silver Lake South Shore 1	20MQ198	Paquette 2003

21.) Silver Lake Silver Lead Creek 2	20MQ199	Paquette 2003
22.) Silver Lake South Shore 2	20MQ200	Paquette 2003
23.) Silver Lake Sand Point	20MQ201	Paquette 2003
24.) Silver Lake Sand Terrace	20MQ215	Paquette 2004
25.) Silver Lake Voelkers Creek	20MQ216	Paquette 2004
26.) Silver Lake South Point	20MQ217	Paquette 2004
27.) Silver Lake Sand Point 2	20MQ218	Paquette 2004
28.) Silver Lake Sand Point 3	20MQ219	Paquette 2004
29.) Silver Lake Big Rock	20MQ220	Paquette 2004
30.) Silver Lake Dead River 2	20MQ221	Paquette 2004
31.) Silver Lake Dead River 1	20MQ222	Paquette 2004
32.) Silver Lake Dam North	20MQ223	Paquette 2004
33.) Silver Lake Outlet	20MQ224	Paquette 2004
34.) Silver Lake South Shore 3	20MQ225	Paquette 2004
35.) Silver Lake Peninsula	20MQ226	Paquette 2004
36.) Silver Lake West End	20MQ227	Paquette 2004
37.) Silver Lake Sand Terrace 2	20MQ231	Paquette 2005
38.) Silver Lake River Bank	0MQ232	Paquette 2005
39.) Silver Lake Dead River 3	20MQ233	Paquette 2005
40.) Silver Lake Dead River 4	20MQ234	Paquette 2005
41.) Silver Lake Dead River 5	20MQ235	Paquette 2005
42.) Silver Lake West End 2	20MQ236	Paquette 2005
43.) Silver Lake West End 3	20MQ237	Paquette 2005

44.) Silver Lake Dead River Pond 1	20MQ238	Paquette 2005
45.) Silver Lake Dead River Pond 2	20MQ239	Paquette 2005
46.) Silver Lake Dillon 2	20MQ240	Paquette 2005
47.) Silver Lake Gravel Knoll	20MQ241	Paquette 2005
48.) Silver Lake Overlook	20MQ242	Paquette 2005
49.) Silver Lake Dillon 1	20MQ243	Paquette 2005
50.) Silver Lake Megan	20MQ250	Paquette 2006

Figure 1: Map showing locations of documented Silver Lake Basin Archaeological Sites



**Note: the location of above listed site #1 (20MQ35) is not shown on this map;
the locations for sites #2 thru #50 are all shown on map.**

Attachment C

Statements Regarding Cultural Use on Yellow Dog Plains and at Migi zii wa sin

May 5, 2006

Susan LaFermier, President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, MI 49908

Dear Susan:

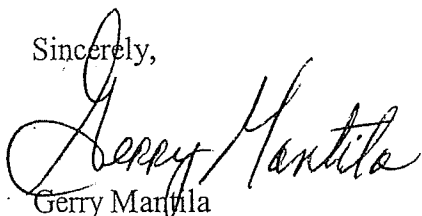
The Keweenaw Bay Indian Community Cultural Committee would like to take this opportunity to express our concern for Eagle Rock and for the continuation of traditional ceremonies and fasts associated with the location.

The Ojibwa name for Eagle Rock is *Migi zii wa sin*. On May 4, 2006 members of the Cultural Committee along with other Community members took part in an Ojibwa traditional sunrise ceremony and fast.

Members of our Cultural Committee are very concerned about the prospect of being denied access to this area if Kennecott Mining Company is given a mining permit for this location. Our people have used *Migi zii wa sin* for hundreds of years and would be devastated if we no longer have access to this sacred site.

We urge you to contact our Tribal Historic Preservation Office regarding this sacred site to start the process of protecting *Migi zii wa sin* from destruction and allowing us to continue having access to this site to practice our sacred ceremonies and fasts.

Sincerely,

A handwritten signature in cursive script that reads "Gerry Martila". The signature is written in dark ink and is positioned above the printed name.

Gerry Martila
Chairwoman
KBIC Cultural Committee

CC: Summer Cohen, THPO Office

April 27, 2006

Susan LaFernier, President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, MI 49908

Dear President LaFernier:

This letter is to thank you for the honor I had to visit Eagle Rock at the Yellow Dog Plains on April 20, 2006.

This is a very sacred place to be used for traditional ceremonies it was intended for.

I pray that you can keep fulfilling the purpose it was put there for.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy Sam".

Dorothy Sam
Mide Priestess
Ojibwa Cultural Spiritual Advisor
Mille Lacs Lake Band of Ojibwa Reservation
Box 262
Onamia, MN 56359

CC: Geraldine Mantila, KBIC Cultural Committee
Summer Cohen, Tribal Historic Preservation Office

April 20, 2006

Susan LaFernier, President
Keweenaw Bay Indian Community
107 Beartown Road
Baraga, MI 49908

Dear President LaFernier:

I was asked by the Keweenaw Bay Indian Community to look at an area called Eagle Rock.

In my opinion and observations from a Native spiritual perspective, this is and has been a significant area for the Ojibwa people. Signs point to ceremonial ground used for fasting, our Mide religious ceremonies and renewal fasts. The rock is very spiritual and the strength of our ancestors is still present and full of spiritual life.

We hope to conduct fasts and various other native ceremonies.

This land needs to be protected for our future generations.

Sincerely,

A handwritten signature in cursive script that reads "Harlan Downwind". The signature is fluid and somewhat stylized, with the first name being the most prominent.

Harlan Downwind
Mide Priest
Ojibwa Cultural Spiritual Advisor
Red Lake Band of Ojibwa Reservation
618 North 9th Street
Brainerd, MN 56401

CC: Geraldine Mantila, KBIC Cultural Committee
Summer Cohen, Tribal Historic Preservation Office

Tim Tilson
15873 Center Road
L'Anse, Michigan 49946

December 6, 2007

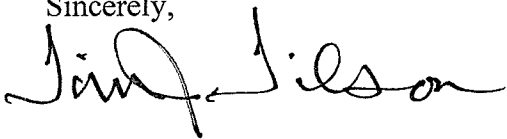
Keweenaw Bay Indian Community
Tribal Historic Preservation Office
16429 Beartown Road
Baraga, Michigan 49908

To Whom It May Concern:

I am a Tribal member of the Keweenaw Bay Indian Community. I have fished the Salmon Trout River on several occasions off of the North Road and my cousins and uncle use to commercial fish out of Big Bay they would bring their rifles or shotguns with them. They shot deer and partridge when they drove from L'Anse to Big Bay along the AAA Road.

I am also a Conservation Officer; I used to work for Great Lakes Indian Fish and Wildlife Commission, and recently took a conservation officer position with the Keweenaw Bay Indian Community Tribal Police Department. As an Officer, I patrol lands within the ceded territory. I have registered deer harvested by Tribal hunters from the yellow dog plains. I have also observed Tribal members at Eagle Rock participating in Ceremonial Activities.

Sincerely,

A handwritten signature in black ink that reads "Tim J. Tilson". The signature is written in a cursive style with a large, stylized "T" and "J".

Tim J. Tilson

Beverly Lussier
Zeba Road
L'Anse, MI 49946

December 5, 2007

Keweenaw Bay Indian Community
16429 Beartown Road
Baraga, MI 49908

To Whom It May Concern:

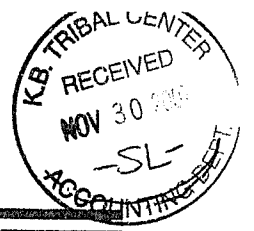
I am an Ojibwa Elder, enrolled at the Keweenaw Bay Indian Community and living on the reservation. I have grown up on the reservation and have been here for many years. I am aware of the proposed mine to be located on the Yellow Dog Plains, ground zero being a high spot just off what is called the triple AAA road. I have traveled, following the foot path of my ancestors along the AAA road to a place commonly referred to as Eagle Rock or Migizi wasin. The reason I travel to this area is to pick blueberries and at the highest point of Eagle Rock, for traditional ceremonies. ***Eagle Rock is a sacred site, and should not be disturbed in such a way.***

It is my hope that my grand children's children and their children will one day be able to travel to this place for the same reasons that I and my children now do.

Miigwech,



Beverly Lussier



Dr. Eleanor (Elli) Andrews
ARCHAEOLOGY-ETHNOLOGY-HISTORY-EDUCATION

27 November 2007

Susan La Fernier, President
Keweenaw Bay Indian Tribal Community
16429 Beartown Road
Baraga MI 49908

Dear Ms. La Fernier:

Please consider this letter documentation of my knowledge of the Eagle Rock site and its importance to the tribe as a Traditional Cultural Property as defined by the U.S. government federal regulations.

I was employed by the Keweenaw Bay Indian Tribal Community from 1974-76 as the director of the Ojibwa language program. This entailed interviewing and working closely with elders who were the last remaining speakers of the language on the reservation at that time. I have an M.A. in Anthropology and an Ed.D. in Education, and worked to develop the language research and curriculum development for that project. My son Rob Dudley was hired as a media specialist by the tribe and helped develop a print shop, photo and television lab, and worked with me in filming and recording the elders as well as other assignments given him by the tribe.

Rob was friends with a neighbor of his in L'Anse, Beaver Pelcher, and they rode in a jeep out to the Eagle Rock site which Beaver was familiar with at that time. It is my understanding that Mr. Pelcher had some knowledge of the use of the area by tribal members as a place for vision quests and other ceremonial activities. Rob went with Mr. Pelcher to the site on at least two occasions and on one occasion they performed a tribal ceremony. I was taken to the site by my son and was impressed by it and saw some of the offerings of tobacco and herbs that had been left there by others. There were some depressions in the area which may have been prehistoric copper mining sites, but I did no archaeological investigations at that time. It is my understanding that subsequently this has been verified by other academic persons.

6229 E. Sugar Grove Rd.
Fountain MI 49410
Ph: 231-462-3855
e-mail: manidok@hotmail.com

11-27-07

Letter to Ms. La Fernier

The presence of prehistoric copper mining at the site is also a matter of ethnological concern, as copper was considered sacred by the Chippewa tribal people living in the area at the time the first white persons entered the Upper Peninsula area. There is ample historic documentation of that fact, much of it having to do with a large copper rock that was found just south of Baraga. When that copper was removed by non-Indians there was considerable concern, and there have been subsequent attempts to retrieve it by the tribe over the years. I believe that the legal documents relating to that incident would verify the fact that copper was and is considered a sacred element by the tribal people.

The area in which the copper rock was found is in the tribal area of the Keweenaw Bay Indian Tribal Community, and there is ample legal verification of that fact as well.

Since there is clear evidence that the Eagle Rock site was not only used for religious and cultural activities over the years, and has been used for those purposes within the time frame required for Traditional Cultural Properties regulations, that fact stands. The additional evidence that the presence of prehistoric copper mining by ancestors of the present tribal members of the Keweenaw Bay Indian Tribal Community is documented, and the fact that copper itself is considered a sacred element according to tribal traditions is a second piece of evidence to support the need for protection of the site as a Traditional Cultural Property.

It is my sincere hope that such an impressive and important site will not be damaged. If there are any further questions, please contact me.

Yours truly,



Dr. Eleanor L. Andrews

cc: Geraldine Mantilla, Chair
KBITC Cultural Committee

Summer Cohen
Tribal Historic Preservation Officer

11-27-07

158 Tenth St.
Britton MI 49229
Ph: 517-605-4202

Susan La Fernier, President
Keweenaw Bay Indian Tribal Community
16429 Beartown Rd.
Baraga MI 49908

Dear Ms. La Fernier:

It has come to my attention that the Eagle Rock area is currently under some danger of being destroyed by proposed mining operations. I am quite concerned about this as in the past I was at that site and consider it a sacred area. I worked for the tribe in 1974 to 1976 and lived in the tribal housing area in L'Anse. A friend of mine, Beaver Pelcher, was a neighbor who showed me Eagle Rock and with whom I performed a religious ceremony there. This is what I remember:

Beaver and I were driving up Three Rivers Road in my jeep. At the base of the mountain there was a stream that you had to drive around to the left side of the road that went to the top of the mountain (power lines, I think). Just before the top of the mountain on the right side of the road, at the base of the outcropping bluff, there was an old path. You could tell because the trees were smaller than the rest of the trees in the area. We followed it to the outcropping. After climbing to the top of the outcropping, Beaver and I both looked at each other at the same time. "You feel that?" "Yea!" "You?" "Yea!" Beaver and I felt that this is a special place. I believe that later he checked it out with some of the elders and was told about it.

We walked around and found some old open pits at the base of the outcropping that was being worked for the quartz that was visible. We removed some of the moss from the quartz and saw more of it at or near arm level. When I was at the Cliff mine in Mohawk in 1972, I found the same type of pits at the top of the bluff about 500' back from the edge of the bluff. Later I learned it was an early type of copper mining.

Beaver and I went back a few days later and performed a ceremony at Eagle Rock to the four directions according to the things he had learned. We offered tobacco and sat for a long time feeling that this was a very special and important place. It is hard for me to describe that feeling. We felt that others should be taken to this place.

After that I took my mom to Eagle Rock, and she saw our tobacco offering, but there were others there by then as well. So I guess there might have been others who went there. She recognized the old mining pits and the quartz.

Jamie
RECEIVED
DEC 04 2007

K.B.I.C. President's Office

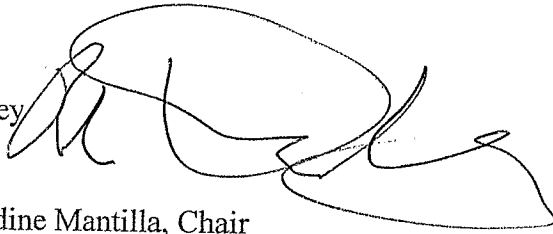
p.2 Letter to Susan La Fernier 11-27-07

After that, Beaver and I talked about the place a few more times and how we should go back there. But I was running out of money and my jeep (that could get to the place) had broken down. I had taught people in the tribe to do the things I was doing there and provide support as needed to interested tribal members. We developed a video studio, a recording studio, dark room for photography, and a print shop with the ultimate goal of tribal members taking over the jobs created. We were just there to help out for a while. My mom moved back downstate and so did I, but we have stayed in touch with people at Baraga over the years.

If you need any further information, please contact me.

Sincerely,

Rob Dudley

A handwritten signature in black ink, appearing to read 'Rob Dudley', written over a horizontal line.

cc: Geraldine Mantilla, Chair
KBITC Cultural Committee

Summer Cohen
Tribal Historic Preservation Officer

Attachment D

Letters regarding Cultural uses of the proposed mine
site by local Tribal communities



November 14, 2007

**Cultural Division
Repatriation
Program**

523 Ashmun Street
Sault Ste. Marie
Michigan

49783

Phone

906.635.6050

Ext 26140

Fax

906.632.7059

Robert D. Tolpa
Acting Director, Water Division
United States Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Dear Mr. Tolpa,

It is the contention of the Sault Ste. Marie Tribe of Chippewa Indians (SSMTCI) that the U.S. Environmental Protection Agency (EPA) has not appropriately consulted with the SSMTCI or any other Native American Nations with Historic presence relative to the Kennecott Eagle Minerals Mining Project; Marquette County, MI.

The Sault Tribe and all other Ojibwe/Chippewa Nations have a deeply rooted cultural and historic association with the area of the proposed project that cannot be disputed. Consultation and cooperation with federal agencies forms a vital part of our efforts to protect sacred, historic and cultural places, especially on federal lands and other public lands. We look to the federal government and its agencies to fulfill their legislated and constitutional responsibilities to the tribes, more than ever in regard to the protection and preservation of our cultural resources. However we are deeply saddened by the low level of effort that was displayed by the EPA to assist and cooperate with us on this undertaking during the initial stages.

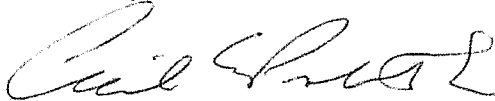
A telephone call or letter notifying us of this undertaking would have assured us that our concerns with regards to the environment and potential adverse affect to the area in question of the project were being addressed. We were never part of the decision-making process with this project.

It is highly likely that a burial site(s) and other Traditional Cultural Properties exist within the area in question. The remains of our Ancestors and the places where they are buried hold a special place in our hearts. The maintenance of our relationship with our Ancestors is a principal part of our cultural beliefs and practices. This entails ceremonial, spiritual and physical protocols that would not be maintained before, during or after this project.

We are also concerned about the fact that certain protocols regarding consultation were possibly not followed per the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.

We are in complete opposition to any proposed project that would compromise and/or adversely affect the environment, our Mother the Earth. We would respectfully request in writing the future intentions of the EPA regarding this project or any other.

Sincerely,



Cecil E. Pavlat Sr.
Cultural Repatriation Specialist
Sault Ste. Marie Tribe of Chippewa Indians

cc: Summer Cohen, KBIC



STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

REBECCA A. HUMPHRIES
DIRECTOR

December 7, 2007

Mr. Jonathon Cherry, P.E.
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive, Suite 103
Marquette, MI 49855

Dear Mr. Cherry:

The Department of Natural Resources (Department) has reviewed the comments received as a result of the public hearings, those provided directly to the Department, and those received from Kennecott on October 17, 2007. In addition, we have compared these and the Department's original comments on Kennecott's Mining and Reclamation Plan (MRP) with the conditions required in the Department of Environmental Quality's Part 632 draft mining permit.

As a result, additional questions have developed, and additional concerns have been expressed over several aspects of the MRP. The Department requires clarification about the following elements of the MRP:

- Kennecott has maintained that the proposed location for the portal and surface facility is the best from a resource, operations, and safety perspective. The Department has agreed, based on the information it has, that the proposed location is preferred. However, Kennecott has not provided specific detail to support these claims. Please provide the specific rationale and data to support why the proposed location for the surface facility and portal are superior to other available options.
- Kennecott has indicated they will develop a plan for subsidence monitoring. The metallic mining lease requires the lessee to demonstrate that mining is conducted in a manner which will prevent slumping and heaving. As such, the Department requires the plan for subsidence monitoring to be provided as part of the MRP. Please provide details on how Kennecott will monitor for surface and subsurface subsidence, including the frequency and sensitivity of the proposed method.

NATURAL RESOURCES COMMISSION

Keith J. Charters, Chair • Mary Brown • Hurley J. Coleman, Jr. • Darnell Earley • Bob Garner • John Madigan • Frank Wheatlake

STEVENS T. MASON BUILDING • P.O. BOX 30028 • LANSING, MICHIGAN 48909-7528
www.michigan.gov/dnr • (517) 373-2329

Mr. Jonathan Cherry
Page Two
December 7, 2007

- Kennecott has indicated they have developed a plan for response to a leak in the TDRSA, but the MRP and information included in Section 8 of the Mining Permit Application do not address a response to a leak in the TDRSA. Please provide details on how Kennecott will respond to the discovery of a leak in the TDRSA, including the actions to be taken to identify the source of the leak, methods to be used to repair the leak, operational contingencies during the period of leak repair, and analysis of causes of the leak to preclude possible future leaks.
- Kennecott has stated they will develop a Mine Groundwater Assessment Plan that will provide a response to inflow rates greater than 300 gallons per minute. Please identify how Kennecott will respond to sustained ground water flows greater than 300 gallons per minute, including operational methods to handle increased water flow, procedures to be used to reduce flow rates below 300 gallons per minute, and operational contingencies during periods of water flow above 300 gallons per minute.
- The COSA storage area and truck wash area contain impermeable surfaces that are not proposed to be underlain by secondary containment. Please identify the plan of inspection of the impermeable surfaces, to assure they are free from cracks and penetrations and an operational program to assure that collected fluids are kept to a minimum volume and remain on the impervious surfaces for a minimum period of time.
- While existing soil parameters are discussed in Exhibit A, there is no discussion of the effect on the soils of stockpiling them for extended periods of time. The Department's experience suggests that soils, which have been moved and stored for an extended period, will experience changes to their pH and fertility. The topsoil in this area is only a few inches thick. Successfully segregating thin topsoil over a large area will be dependent on the methods used. Please provide information discussing the changes expected in the stored topsoil, and discuss the means whereby Kennecott will successfully segregate and re-spread the topsoil. Please include an expected plan of fertilization and augmentation necessary to achieve a topsoil thickness and fertility commensurate with pre-construction conditions.
- Kennecott stated that it has modified its plan of abandonment for the portal to include placing boulders below the final grade level of the exterior of the portal plug to prevent access to the portal plug. This requirement will be incorporated into any approval of the MRP.

Mr. Jonathon Cherry
Page Three
December 7, 2007

The Department has also considered the comments referenced above with respect to the proposed Surface Use Lease. Please see enclosed draft Surface Use Lease and note the addition of paragraphs 4.A.4. and 11.J. Please also note that Paragraph 3 identifies the Lessee representative and alternate who are authorized to make decisions regarding the maintenance and operation of the Premises for the Lessee. Please provide the names of the Lessee representative and alternate. Finally, please note on page 8, the lease identifies the name and address to be used when sending notifications to Kennecott. Please provide this information in your response to the Department.

As discussed during last night's Natural Resources Commission (NRC) meeting, there is a narrow window of time available to provide the information requested above to the NRC and Director, in time for the January NRC meeting. Please provide this information by **December 14, 2007**. My return address is DNR, Forest, Mineral and Fire Management, P.O. Box 30452, Lansing, MI 48909-7952.

If you have any questions or need more information, please contact me.

Sincerely,

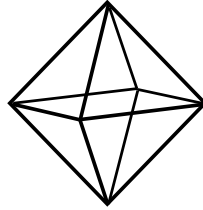


Thomas Wellman, Manager
Mineral and Land Management Section
Forest, Mineral and Fire Management
517-373-7666

Enclosure

cc: Mr. Harold Fitch, DEQ
Ms. Lynne Boyd, DNR
Ms. Debbie Begalle, DNR
Mr. William Brondyke, DNR
Mr. Milt Gere, DNR

Jonathan C. Cherry, P.E.
General Manager
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



Kennecott Eagle Minerals

Mr. Thomas Wellman, Manager
Mineral and Land Management Section
Forest, Mineral and Fire Management
Department of Natural Resources
P.O. Box 30452
Lansing, MI 48909-7952

December 14, 2007

Re: Response to questions and clarifications

Dear Mr. Wellman,

In response to your letter dated 7 December 2007, I am transmitting the following documents as requested.

1. Specific rationale to support the proposed location for the surface facilities and portal entrance.
2. Subsidence Monitoring Plan
3. TDRSA Leak Detection System Plan
4. Mine Groundwater Assessment Plan
5. Impervious Surface Inspection Plan
6. Topsoil Monitoring Plan
7. Portal Abandonment Plan

You also requested the names of the Lessee representative and alternate who are authorized to make decisions regarding maintenance and operation of the premises for the Lessee. Those two individuals are Jon Cherry (General Manager) and Bill Henry (Mine and Construction Manager). Also as requested, the Department should direct all notifications to me as follows:

Mr. Jonathan Cherry, P.E.
General Manager
Kennecott Eagle Minerals Company
1004 Harbor Hills Drive, Suite #103
Marquette, MI 49855

If you have any questions regarding these plans or the responses provided, please contact me at your earliest convenience at 906-225-5791 or via email at cherryj@kennecott.com.

Sincerely,

Jonathan C. Cherry, P.E.
General Manager

Mr. Thomas Wellman

December 14, 2007

Page 2 of 3

Attachments

Cc: Mr. Harold Fitch, DEQ
Mr. Joe Maki, DEQ
Ms. Lynne Boyd, DNR
Mr. William Brondyke, DNR
Mr. Milt Gere, DNR
Mr. Steve Donohue, Foth Environment and Infrastructure
Mr. Gene Smary, Warner Norcross & Judd



Memorandum

December 14, 2007

TO: Jon Cherry, Kennecott Eagle Minerals Company

CC: Steve Donohue, Foth Infrastructure & Environment, LLC
Dennis Donohue, Warner, Norcross & Judd
Master File 04W018-5001

FR: John Starke, Foth Infrastructure & Environment, LLC

RE: Location Selection Basis for the Eagle Project Surface Facility

This memorandum presents the location selection basis for the Eagle Project surface facilities. Surface ownership of the Eagle Project and surrounding area is shown in Figure 1. There are two parts of surface facilities for the project: the main surface facility comprised of 88 acres of disturbed land; and the backfill facility comprised of 9.8 acres of disturbed land. The backfill facility location is close to the Salmon Trout River and is dictated by the ore body and the underground mine design, therefore no alternative locations are available. Operations at the backfill facility have been kept to a minimum to reduce environmental risk and footprint. The location of the main facility was selected to minimize the environmental footprint of the Eagle Mine and to provide a safe and efficient operational area for mining activities. Criteria used to select the proposed location of the main facility are discussed below.

1. Minimize the environmental footprint of the facility.

KEMC designed the main surface facility in the smallest disturbed footprint that would allow safe and effective mining operations. The facility includes:

- ▶ Two contact water basins, three non-contact water basins,
- ▶ Temporary development storage area,
- ▶ Sanitary system,
- ▶ Parking areas,
- ▶ Mine office building,
- ▶ Coarse ore storage area,
- ▶ Gatehouse,
- ▶ Powder magazines,
- ▶ Truck wash,
- ▶ Treated water infiltration system,
- ▶ Wastewater treatment plant,
- ▶ Generator Building,
- ▶ Fuel storage area,
- ▶ Other ancillary facilities.

These facilities are contained within the smallest area will allow safe and efficient mine operations. Containing the operations within a smaller area would result in inefficient operations and cause potential vehicle hazards or unsafe operating conditions.

2. Reducing impacts to surface water or groundwater resources.

The main surface facility is located east of the local groundwater divide. This location reduces risk to the Salmon Trout River Main Branch from mining activities. The facility has been designed to protect the environment whether it's located west or east of the groundwater divide. However, locating the facility as proposed east of the groundwater divide, provides an extra measure of protection as the closest down gradient surface water is over a mile to the north.

3. Reducing impact to natural wooded areas.

KEMC chose a main facility location and alignment to lessen removal of large trees. The proposed position of the surface facilities is located in previously clear-cut areas. As such, wooded tracks of land surrounding the site will remain and will screen the operations from surrounding properties.

4. Provide a facility location that can be screened by natural site features.

The location of the main surface facility was selected to make use of natural screening from Triple A Road and the surrounding properties. A large portion of the main surface facility will be screened by existing wooded areas and by the rock outcrop. These natural features will not only reduce visual impacts of the site operations, but will also buffer noise from operations. Although KEMC could position the facility on Kennecott land, this would result in less screening between Triple A Road and the main surface facility.

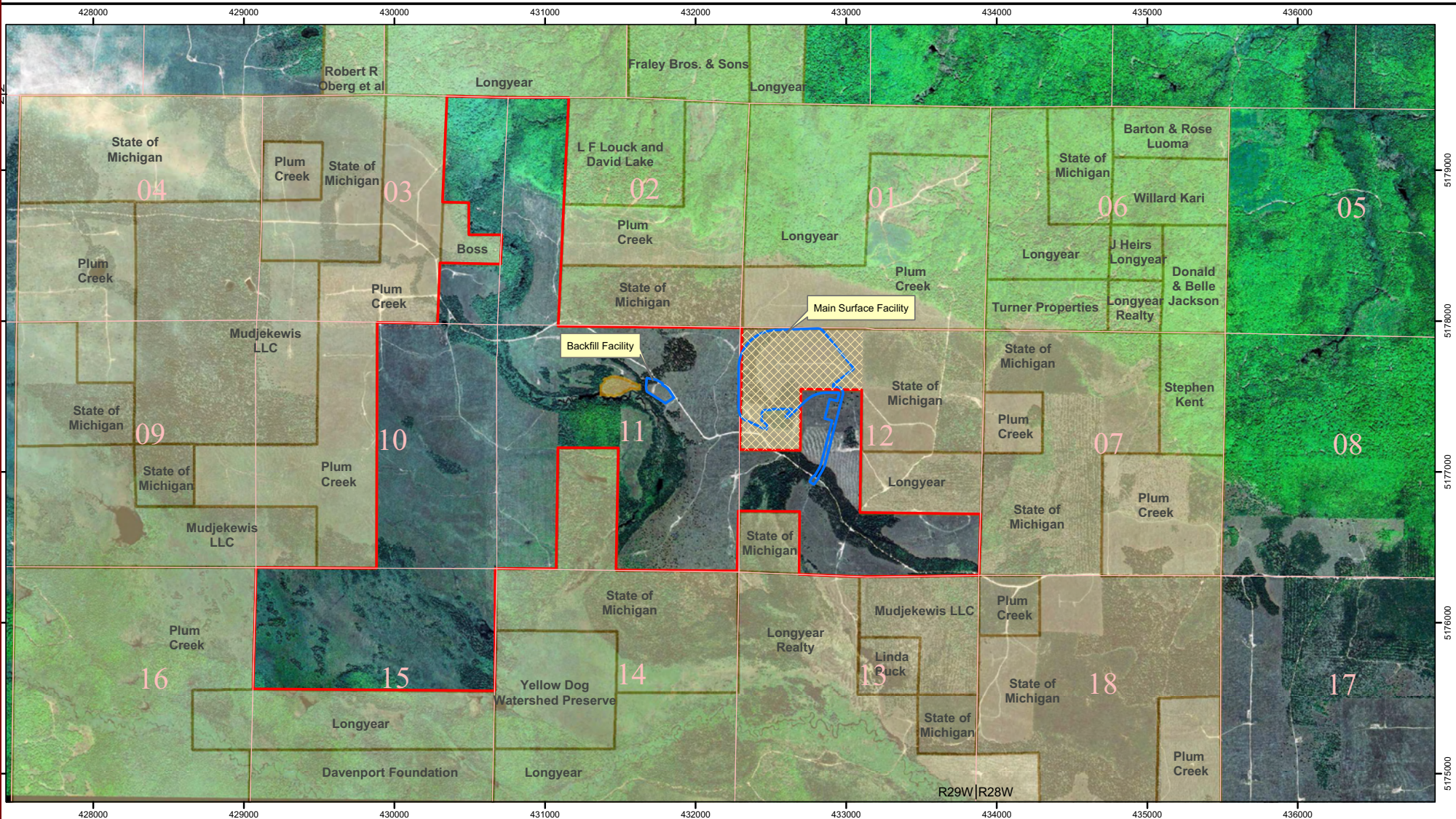
5. Locate mine portal to provide safest possible access point.

The mine portal entering the bedrock near the outcrop will provide stable access to the ore body. Positioning the portal at a location more distant from the rock outcrop would require extending the portal through loose, unstable alluvial soils thus would increase the risk to the aquifer and result in a less safe portal. From a safety perspective, KEMC believes the mine portal is best positioned near the outcrop to utilize the structural benefit of the natural rock mass.

6. Need for state land use.

KEMC-owned land was considered for the surface facilities operations. However, for the previously stated reasons, state-owned land better meets the location criteria. These location criteria include:

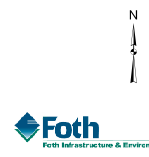
- Lowering risk to groundwater and surface water resources,
- Minimizing disturbance and cutting of wooded areas,
- Minimizing noise and visual impact from the main facility,
- Providing safe access to the ore body using the structurally sound rock near the outcrop, and
- Minimizing the environmental footprint and risk of the facility by containing operations into the most practicable and safe area.



NOTES
 Surface Rights Boundary, Ore Body and Orthophotography supplied by Kennecott via Golder Associates Inc., August, 2005. Horizontal datum based on NAD 83/94. Horizontal coordinates based on UTM Zone 16. Property Ownership supplied from Kennecott and Coleman Engineering
 Site Location - Project Site within Sections 11 & 12, T50N, R29W, Michigamme Township, Marquette County, Michigan.

LEGEND

	Eagle Ore Body
	Location of Surface Facilities
	Kennecott Surface Ownership
	Section Lines
	State Leased Area



Foth Infrastructure & Environment, LLC			
REVISED	DATE	BY	DESCRIPTION
CHECKED BY: JOS1		DATE: DEC. '07	
APPROVED BY: SVD1		DATE: DEC. '07	
APPROVED BY:		DATE:	

FIGURE 1 PROJECT SURFACE OWNERSHIP	
Scale:	Date: DECEMBER, 2007
Prepared by: DAT	Project No: 04W018

KEWEENAW BAY INDIAN COMMUNITY

2007 TRIBAL COUNCIL

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MICHAEL J. LAFFNER, SR.
ELIZABETH "CHIZ" MATTHEWS
ELIZABETH D. MATO

January 3, 2008

Adverse Impacts on DNR Surface Lands and Natural Resources by Kennecott's Mining Operation

I. Introduction

The following comments are being submitted by the Keweenaw Bay Indian Community to the Michigan Department of Natural Resources in connection with the consultation by the Community with the Department regarding the Department's proposed recommendation of approval of the proposed Surface Use Lease of state land to Kennecott Eagle Minerals Co. (Kennecott) and Kennecott's proposed Mining and Reclamation Plan (MRP) to the Natural Resources Commission.

The Kennecott Eagle Minerals Co. has requested the use of land owned by the state of Michigan for construction of a portal and tunnel to an underground mine and for construction on state land of surface facilities for the mining operations. The state land is in the Escanaba River State Forest, Yellow Dog Plains of northwest Marquette County, Sections 11 and 12, T50N-R29W.

The proposed mine is located east of the Keweenaw Bay Indian Community reservation and is in the territory ceded by the predecessors of Keweenaw Bay Indian Community to the federal government through the Treaty of 1842. This territory, which includes the Yellow Dog Plains area, is critical to the right of the members of the Community to exercise their treaty rights to hunt, fish and gather in that area.

II. Adverse Impact to the Land Leased by the Department to Kennecott.

It is acknowledged that the technical issues concerning mining and the construction and operation of the proposed sulfide mine, which include rock mechanics, geochemistry, groundwater modeling, design of waste water treatment and infiltration systems, structural geology etc. are primarily the responsibilities of the Michigan Department of Environmental Quality under Part 632. However, within all these issues, there are a number of issues which

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relate directly to the adverse impact by the construction and operation of the mining facilities on the land that is owned by the state and will be the subject matter of the Surface Lease.

Based upon the Combined Comments in Opposition to the Mining, Groundwater Discharge and Air Use Permits, dated October 17, 2007, by the Keweenaw Bay Indian Community, National Wildlife Federation and Huron Mountain Club that have been submitted to the Department (Combined Comments), Kennecott has numerous **major factual and technical deficiencies** in the construction and operation of the mining facilities which will have a direct and adverse affect on state land which will be leased to Kennecott by the Department under the Surface Lease. The Combined Comments are hereby incorporated by reference for consideration by the Department.

Major technical issues which relate to the Surface Lease include:

- Structural geology in and around the mine indicate that Kennecott's Mining Permit Application (MPA) has significantly underestimated the water inflow to the mine. Under reasonable assumptions, as detailed in the Combined Comments, almost *four times* the maximum volume that Kennecott represented in the Groundwater Discharge Permit Application could enter the mine under operational conditions (Combined Comments on the Groundwater Discharge Permit Application (GDPA), Appendix 4 and Mining Permit Application (MPA) (III A and B, and Appendices 8 and 9).
- Geochemical studies indicate the contaminate loading of the mine water which will be pumped to the Waste Water Treatment Plant (WWTP) significantly underestimates the concentration of toxic metals and other constituents. The Eagle deposit (a massive sulfide ultramafic ore body) is similar to other ore bodies that have produced acidic waters with high concentrations of base metals such as nickel and copper. There exists a wealth of information pertaining to the geochemical effects of sulfide metal mineral mining. The ore and its host rock clearly have a moderate to high ability to produce acid and contaminants and a low ability to neutralize the acid produced. The surrounding metasedimentary rocks also have a high ability to produce acid and leach metals (Combined Comments of the MPA, Appendix 7). Overall, geochemical characterization and modeling performed by Kennecott for the permit application substantially underestimates the degree of acid and metal contamination that will result from project implementation (Combined Comments on the GDPA and MPA).
- Review of the mine's air quality impacts indicate deposition of more than 430 tons of particulate matter deposited within 1.6 miles of the mine site and more than 959 tons of particulate matter, including more than 7,000 lbs of copper and 7,130 lbs of nickel, deposited within 12.4 miles of the site over the 8-year life of the mine. The two large contributors to these emissions are from fugitive dust from surface operations (e.g., ore truck traffic) and ventilation of the underground operations.

Kennecott intends to place both the Waste Water Treatment Plant and the Treated Water Infiltration System on land leased from the State of Michigan. Two very concerning factors regarding this intended land use are discernable from the preceding comments. First, the capacity of the WWTP may be overwhelmed by the volume of contaminated water pumped up from underground. Kennecott's water balance estimate predictions (GDPA, Appendix 2) severely

underestimates the amount of groundwater infiltrating to the underground mine, especially from the overlying glacial-alluvial aquifer. If substantially more flow enters the mine during operations than predicted in the GDPA, the mine's WWTP will not be able to treat the amount of water pumped from the mine. The increased volume will also increase the size of the discharge mound and plume at the treated water infiltration system (TWIS). A larger discharge to the TWIS may alter the local groundwater divide and flow direction, increase groundwater flow velocity and flow from the seeps, create pooling on the surface and make prediction of contaminate fate and transport more difficult and unreliable. This is exacerbated by the poor groundwater modeling performed by Kennecott as described herein.

Secondly, review of Kennecott's modeled WWTP inputs shows that predicted concentrations of many metals, including aluminum, barium, beryllium, cadmium, calcium, cobalt, copper, iron, lead, magnesium, manganese, mercury, nickel, zinc and particularly boron are expected to be substantially higher than projected by Kennecott (Combined Comments, MPA, Appendix 7). The failure by Kennecott to consider these and other water quality characteristics for the influent data used to predict WWTP performance will cause significant system design deficiencies that would result in the treatment system not being able to meet its effluent requirements (Combined Comments, GDPA, Appendix 3). Also, the effluent from the treatment system will be very aggressive and therefore will leach contaminants out of the infiltration bed and / or subsurface which in turn would lead to violation of the applicable groundwater standards. The consequences are that the WWTP is overly complex, the system is a "first of its kind", no treatability or pilot tests will be done and will experience considerable startup problems and downtime which will inevitably result in an inability to meet effluent discharge water quality limits at the TWIS. Add to these groundwater impacts the potential for the Temporary Development Rock Storage Area (TDRSA), also proposed to be sited on state land, to leak highly acidic and metal-laden water into ground water and eventually surface water (Combined Comments, MPA, III E, and Appendix 7).

Air deposition modeling (Combined Comments, Air Use Permit (AUP) and Appendix A and B) indicates that the soils of the leased state land and surrounding areas would be contaminated due to deposition of fugitive dust containing air borne metals. Plants and animals on state land within the mine site's air particulate deposition area (Combined Comments, Air Use Permit (AUP), Appendix C) would be contaminated by toxic metals to an unacceptable and potentially poisonous level. Surface runoff during precipitation events and melting of the snow pack in the spring would transport metals overland and into local drainages. Transport of these toxic metals presents a threat to aquatic invertebrates (highly susceptible to copper (AUP, Appendix 3)) in the surrounding surface water and up the food chain. Most of the air born metals would originate from the Kennecott surface facilities on state land.

Allowing Kennecott to construct and operate its mine surface facilities on state land and the inevitable contamination of state property that will result from Kennecott's mining operations, will subject the state to liability for that contamination pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* ("CERCLA"). The state, as fee simple owner of the contaminated property, will be strictly, jointly and severally liable pursuant to 42 U.S.C. §9607(a) even if it has no involvement other than its ownership of the property. See 42 U.S.C. §9601(20) (CERCLA definition of "owner,"

including a "person owning" contaminated property); 42 U.S.C. §9601(21) (CERCLA definition of "person," including a "State ... [or] political subdivision of a State"); *U.S. v. R.W. Meyer, Inc.*, 889 F.2d 1497, 1507 (6th Cir. 1989) (landowners are strictly liable regardless of their degree of participation in creating the contamination at issue); *U.S. v. Friedland*, 152 F.Supp.2d 1234, 1243 (D. Colo. 2001) (there is no culpability requirement for CERCLA "owner" liability, and site control is irrelevant) (citing numerous cases).

Under these circumstances, the state would be liable even if its property ownership rights were limited or encumbered in some respect. *See, e.g., U.S. v. Newmont USA Limited*, 504 F.Supp.2d 1050 (E.D. Wash. 2007) (United States was "owner" under CERCLA of lands held in trust for Indian tribal members, where the United States negotiated and entered into leases authorizing mining upon those lands which, *inter alia*, required periodic reporting by the lessee and payment of rents and royalties to the United States; authorized the United States to "audit the lessee's accounts and books ... to suspend operations under certain circumstances, grant or deny permission to assign the lease, collect the bond, require indemnification of the United States as to road construction, inspect the property, approve or deny termination of the lease by the lessee, ... terminate the lease for violations of the lease's terms and conditions," and adjust royalty rates; and provided for the United States' review and approval of mining and reclamation plans and alterations to such plans).

III. Eagle Rock and Portal Construction

Kennecott has attempted to justify its need to use state land, instead of using Kennecott's adjacent land, as necessary in order to reduce the footprint of the mining facilities and due to the close proximity of Eagle Rock, their preferred portal location. Furthermore, Kennecott's selection of Eagle Rock as the portal is justified on a safety basis and stating that "Positioning the portal at a location more distant from the rock would require extending the portal through loose, unstable alluvial soils thus would ... result in a less safe portal." This logic is seriously flawed as detailed below. The current plan in the MPA already extends the portal through approximately 120 feet of "loose, unstable alluvial soils" but more fundamentally, no alternatives to the portal construction have been proposed by Kennecott or publically considered by any state agency.

Many mines in this country and overseas utilize vertical shafts for all transportation between the surface and the underground mining levels. These mines have vertical shafts which move mine personnel, equipment rock and ore to the surface, provide fresh air and exhaust used mine air. Many of these mines are larger and produce significantly more tonnage per day than that planned at the proposed Kennecott mine. And these mines operate with good safety and reliability records. The obvious lack of feasibility studies of alternatives to the use of Eagle Rock as the mine portal by Kennecott is, in itself, a reason to reject Kennecott's request for Surface Lease.

The proposed construction of the Kennecott mine already includes excavating an 8 foot diameter vertical shaft from the surface to the central mining level for exhausting used mine air. Additional shaft(s) on Kennecott's adjacent land can provide for movement of men, materials, ore and air between surface and underground. Constructing a vertical shaft on Kennecott's adjacent land, through alluvial soils to bedrock is an industry standard procedure. After all,

Kennecott is proposing to construct an 8 foot diameter exhaust shaft in the same geologic conditions for the proposed mine without any apparent safety or environmental concerns.

If vertical shafts were used on Kennecott's adjacent land:

- a mine serviced by vertical shafts would not need the mine portal into Eagle Rock.
- the mine would not need a ramp (decline) over 3000 feet long.
- the shafts would be much closer to the orebody than the proposed portal thus decreasing the land surface footprint of the mine.
- the mine would not require any State land since the shaft area currently belongs to Kennecott.
- the mine surface facilities would be located near the shafts and built entirely on adjoining Kennecott owned land.
- Eagle Rock would not be disturbed by repeated blasting, thousands of truck trips into the rock and would not be fenced off. Additionally, all the disturbance that goes with use of the Eagle Rock portal (e.g., the large power generators proposed to be located on the north side of Eagle Rock, rock crusher, employee and subcontractor / vendor traffic) would be eliminated.

Based on the preceding discussion, the DNR must seriously consider elimination of the portal, the decline ramp and the primary justification by Kennecott for lease of State land by demanding viable alternatives to the mine portal.

IV. Affect of the Construction and Operation of the Mine on Wildlife on State Leased Lands

The proposed mine site is in the middle of the largest undeveloped wildlife habitat area in Michigan, and one of the largest such areas in the Eastern United States.

The mine would significantly impair a very large if not the largest unfragmented wildlife habitat area remaining in Michigan. The impact of the mine on wildlife on state land, caused by pollution, contamination, traffic, light, noise, and human presence would endanger wildlife species, particularly the larger animals including deer, wolves, moose, and lynx which use the proposed leased land and surrounding land as their habitat.

Moreover the proposed mine would profoundly alter the landscape of the state leased land from an undisturbed wildlife habitat to an industrial zone. The Yellow Dog Plains lie between the McCormick Federal Wilderness Area to the south and the Huron Mountain Club to the north. The Yellow Dog Plains also serve as a wildlife corridor and critical habitat for migratory birds. Conversion of this area to an industrial zone would not only impact the state leased lands, but also the entire the Yellow Dog Plains and Salmon Trout River region and wildlife populations which it supports.

This area provides high quality habitat for a number of endangered, threatened, or "special concern" species. The Fish and Wildlife Service verified the presence of the Kirtland's warbler in the affected area. The narrow leaved gentian is a state-listed threatened species. As such, it is a

violation of the Michigan Endangered Species Act to destroy these plants. MCL, §-324.36505(1), 324.36501(g). Several clusters of narrow leaved gentian plants are present within the wetland that would be drained by mining operations (MPA, Vol II., App. f.i, Att. A-3 (Fig. 3.3). These plants would likely be destroyed by the draining of the wetlands that support them. It is beyond the bounds of DNR discretion to lease public lands for a purpose that so directly violates statutory protection of natural resources.

A petition has been filed with the US Fish & Wildlife Service requesting that they list the Salmon Trout River Coaster as an endangered or threatened population under the Endangered Species Act. The Petition provided scientific and commercial data documenting the imperiled state of the Coaster and the dangerously depleted population residing in the Salmon Trout River, of which only two hundred or so breeding Coasters remain. Fish & Wildlife Service representatives have confirmed that they are working towards a decision on the Petition. The Coaster is special to the Keweenaw Bay Indian Community and the tribal hatchery has carried out Coaster breeding and stream stocking in the area for years in an attempt to bring the species back to viable populations.

The Environmental Impact Assessment (EIA) prepared by KEMC and submitted to the DEQ ignores the potential impacts of the mine on wildlife on state-owned land. As protection of Michigan's terrestrial and aquatic wildlife is entrusted to the Department, the Department must independently consider the threats posed by this mine to wildlife habitat, on both the land owned by the state and in the larger area.

V. Affect on the Water Resources on State Lands

There are many ways in which water quality on state lands would be adversely impacted by Kennecott's proposed mining operation. Mining sulfide ore is inherently risky for the environment; it involves moving huge volumes of highly reactive material. The reactive material will be trucked, crushed, stockpiled and stored for years on state owned land. In a wet environment like the Upper Peninsula and Yellow Dog Plains, the risk is even greater. In light of the experience of every other metallic sulfide mine worldwide, it is virtually certain that one or more failures of safeguards will occur at this mine. Evidence of this is Wisconsin's law requiring a mining company to simply provide to the state of Wisconsin an example of company's mining of sulfide metallic mineral ore without having adversely impacted the environment for a period of ten (10) years. To date, this challenge has been attempted but not met by any company proposing a sulfide mine.

Keeping in mind the proposed Waste Water Treatment Plant and the Treated Water Infiltration System will be constructed on state land, the following comments are relevant (Combined Comments, MPA, Appendix 6 and GDPA, Attachments 4 and 5). Kennecott's groundwater models of the project area, including water table aquifers below the state lease land, did not account for local boundary conditions, seeps, streams, or other hydrologic features and did not apply appropriate boundary conditions for groundwater flow at the site and thus likely overestimated travel times for TWIS discharge to reach the Salmon Trout River and underestimated the impacts of the discharge on the river.

Kennecott's proposed construction for groundwater compliance wells that monitor TWIS discharge is flawed because it will not allow direct measurement of groundwater levels after TWIS discharge. These are data needed to understand groundwater flow direction and velocity away from the TWIS, something the owner of the land, such as the state of Michigan, should be concerned about.

Proposed stream surface water monitoring locations for TWIS discharge are not located close enough to the predicted discharge locations in the East Branch Salmon Trout River to provide an early warning system for potential water quality impacts. Early warning of potential impacts going off site should be very important to the state as owner of the source of contamination to ground and surface water. In addition, no numeric limits are established for surface water compliance points.

Based on Kennecott's estimate of TWIS effluent concentrations, the discharge will dilute hardness in the East Branch. Hardness values in the East Branch are already low; further dilution of hardness increases the vulnerability of aquatic life to metals discharge.

Many constituents are predicted to exceed one or more relevant groundwater standards in the underground mine at the end of mining and are likely to increase in time until a chemical equilibrium is reached. When water levels in the underground mine rebound after mining, pre-mining flow paths will be re-established, and contaminated water will move out of this toxic reservoir into downgradient groundwater.

Kennecott's proposed solution to impacted mine water, at least in the upper portion of the mine, is to continue to operate the WWTP and TWIS located on state land. How long will the WWTP and TWIS continue to operate after mining operations are gone? What will be the cost of operating these water treatment and disposal facilities on state land? How long can these facilities operate on the available funds?

When numerous organizations and proposed laws in many states and Canadian provinces seek to protect the Great Lakes and eliminate pollution sources, the State of Michigan should not be so willing to own land upon which the TWIS is located, a source of heavy metal contaminants moving to a Lake Superior tributary.

VI. Defects in the Proposed Mining Reclamation Plan

The Metallic Minerals Lease requires a Mining and Reclamation Plan (MRP). *No mining shall take place on leased premises without a mining and reclamation plan developed by Lessee and approved by Lessor.* Kennecott has summarized the whole of their MRP as consisting of parts of their Mining Permit Application (MPA) submitted to the DEQ.

As the Combined Comments point out the MPA contains literally hundreds of technical mistakes, poor analyses, missing analyses, missing data, unsubstantiated assumptions, inadequate field work and faulty conclusions. By incorporating the MPA into the MRP, Kennecott has incorporated the deficiencies of the MPA into the MRP. The deficiencies in the MPA are

detailed in the Combined Comments and, when taken together with the likely adverse impact of the mining operation on the natural resources in, on and around the state land that is the subject to the Metallic Minerals Lease and the Surface the Surface Lease, are grounds for the Department to reject the MRP.

VII. Missing permits

Drainage of wetlands requires a permit from Michigan Department of Environmental Quality, MCL § 324.303 04. Kennecott has not applied for a permit. The MPA significantly underestimates drawdown of the wetlands above the ore body and the Salmon Trout River due to inflow to the mine and the resulting dewatering. Even using Kennecott's inflows as described in their water balance discussion and a reasonable set of hydraulic parameters, likely drawdown increases from the maximum of 0.12 feet predicted in the application to 3 feet in the wetlands and the Salmon Trout River near the ore body at a mine inflow rate of 75 gpm (Combined Comments, Appendix 6).

In addition to the extremely low 75 gpm scenario (Combined Comments, MPA, Appendices 8 and 9), modeling the 250 gpm inflow rate (Kennecott's inflow upper range) resulted in a wetlands drawdown of nearly 12 feet beneath the wetlands and Salmon Trout River near the ore body, and a reduction in flow of 0.16 cfs directly above the ore body. Drawdown of greater than 0.5 ft is predicted to extend approximately 1 mile from the ore body in all directions. Based on evaluation of rock quality in the crown pillar area (Combined Comments, MPA, Appendices 8 and 9), even a mine inflow of 250 gpm is likely too low to reflect anticipated conditions at the site. (Combined Comments, MPA, Appendix 6).

A drawdown of this degree is irrefutably prohibited by the 2006 Water Legacy Act, which provides, "a person shall not make a new or increased large quantity withdrawal from the waters of the state that causes an adverse resource impact to a designated trout stream." MCL § 324.32721(1). Kennecott's water withdrawal exceeds the definition of a "large quantity withdrawal" and of an "adverse resource impact". Finally, the Salmon Trout River is a designated trout stream.

A National Pollutant Discharge Elimination System (NPDES) must be required for the point where Kennecott's treated groundwater vents to the Salmon Trout River (Combined Comments, MPA, II (H) and Appendix 4).

VIII. Kennecott's Financial Assurance is Insufficient to Ensure Remediation of the Site

Because the proposed lease of state land involves the building and operation of potentially polluting facilities (e.g., TWIS, TDRSA, COSA, rock crusher, contaminated fugitive dust etc.), the Department must examine carefully the financial assurance amounts and funding mechanism or risk being left with significant environmental liabilities. (See prior discussion of CERCLA liability.) A great detail of the reclamation cost estimate has been based upon "engineering judgment from experience", which is basically scientific guess work at best. The proposed financial assurance bond amount of \$17 million is ridiculously low given the potential land, water and air contamination that can be anticipated from a sulfide mine of the magnitude

contemplated by Kennecott's mining proposal. For example, in today's dollars, the sum of \$17 million may be sufficient to monitor 17 leaky underground storage tanks at separate locations for a period of 10 years, but would not be sufficient to remediate environmental damages caused by the same 17 storage tanks.

Moreover, several parameters of the estimate are impractically low and lack detail (e.g. cover soil removal and stockpiling; cover thickness; mine soil contaminants such as nickel) and the bases for cost estimates. Also, these costs are based on a planned event requiring reclamation. The costs need to be recalculated to account for unplanned events and the necessity for a third party to conduct reclamation. Further, since the contingency plans have not been provided by Kennecott the calculations of financial assurance do not properly reflect contingency reclamation funding.

The financial assurance section of the MPA is vague and lacks the level of detail needed to understand the risks that require the need for the financial assurance. Also lacking is the mechanism for setting in motion the financial assurance coverage. For example, contingency costs should be linked to the necessary actions to address problems. For example, the proposed contingency "pump and treat" plan should include explicit costs of pumping, treating and re-injecting water, and should provide estimates of the duration of the program. The financial assurance does not reflect proper funding to carry out contingencies because proper contingency plans are not included in the MPA. All contingency costs should be calculated and covered by the financial assurance (Combined Comments, MPA, II (A)(7)).

A major additional concern is that KEMC has not ruled out the likelihood that surface facilities would need to be operated in perpetuity, effectively leaving the site to require perpetual care even though this is prohibited under Part 632. Since the MPA does not provide accurate analysis of the water quality in the re-flooded mine post-closure (Combined Comments, MPA, III (F)) or plans for a WWTP equipped to treat it, the MPA does not provide a plan for ensuring that the area will be a self-sustaining ecosystem that does not require perpetual care following closure as required by Part 632. In fact, given that the water in the re-flooded mine post-closure will be very low quality (Combined Comments, MPA, Appendix 7 and III (F)), acid-generating materials will be used in backfill and will remain present on the walls of the mine and continue to create leachate. In addition, the MPA's inaccuracies regarding how effectively the proposed WWTP could treat input volumes of acidic and heavily contaminated water post-closure, perpetual care is a real possibility. KEMC has not come close to demonstrating compliance with this statutory requirement (Combined Comments, MPA, II (A)(6)).

Across the country (See the federal governments recent publication on the remediation costs of the mines subject to federal jurisdiction.) and indeed the world, states, provinces and central governments are left with immense clean up costs in the wake of sulfide mining. The current bond amount, approximately \$17 million, does not include execution of contingency plans in the event of unplanned subsidence, failure of the liner that collects leachate beneath the acid generating rock stock piles, or portal (Eagle Rock) collapse. And, it is absolutely deficient in the face of the possible perpetual care responsibilities.

These financial assurance issues in and of themselves are a very serious matter for the state of Michigan. But the added liability of direct ownership of the land by Natural Resources Commission on behalf of the state of Michigan of land that will have several potentially polluting facilities on it (e.g., TWIS, TDRSA, COSA, rock crusher, contaminated fugitive dust etc.) places an additional burden on the Department to assure to the taxpayers that all contingencies are fully covered by the financial assurance mechanism. Without significant additional study as indicated above along with appropriate funding, these mining facilities should not be allowed on state land.

IX. The Department's Natural Resources Obligation

The Department has an affirmative, statutory duty to protect the natural resources of the state, and therefore should deny any approval or permission for activities that would harm natural resources. See *Michigan Oil v. Natural Resources Comm'n*, 71 Mich. App. 667, 680 (1976) "This power to lease state lands is clearly meant to be exercised in light of all of the duties imposed upon the Natural Resources Commission including... to 'protect and conserve the natural resources of the state'" (249 NW2d 135, *aff'd*, 406 Mich. 1, 276 NW2d 141 (1979)).

The Metallic Minerals Lease M602 allows the Department to reject the MRP if the plan is "likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust therein."

NREPA Part 5 directs the department to: Protect and conserve the natural resources of the state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forest lands belonging to the state; prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish. MCL. § 324.503(1).

As discussed above, Kennecott has used the MPA as its MRP. The Combined Comments is an exhaustive analysis of impacts of the proposed mining activities. In preparing this analysis, 20 scientists and engineers from a variety of disciplines have undertaken rigorous scientific review of the MPA which is the most comprehensive analysis of the MPA that has been made public by any person or agency, including any agency of the state of Michigan. Given the public trust responsibilities of the Department to protect the natural resources of the state, the Department needs to seriously consider the analysis and conclusions contained in the Combined Comments. Across the scientific disciplines, these experts determined that Kennecott, in the MPA, has underestimated the negative impacts of the proposed mine on the environment and natural resources of the state. The basic premise that can be drawn from the Combined Comments is that Kennecott's proposed sulfide mine is "likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust therein".

Accordingly, given the Department's public trust responsibilities, the statutory restrictions on the Department, the express conditions/restrictions of the Metallic Mineral Lease M602, and the Department's policies and procedures applicable to the Surface Lease, the Department can not approve the Surface Lease and the MRP because the proposed mine is "likely to pollute, impair,

or destroy the air, water, or other natural resources or the public trust therein", including the air, water and other natural resources, in, on and around the land which is owned by the state and is proposed to be leased to Kennecott under the Surface Lease.

Conclusions

For these reasons, as discussed above and in detail in the Combined Comments, the proposed Surface Lease of state land to Kennecott and the proposed MRP should not be approved the Department.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

COPY

JAN 8 2008

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

Giiwegiizhigookway Martin
Tribal Historical Preservation Officer
Lac Vieux Desert Band of Lake Superior Chippewa Indians
P.O. Box 249, Pow Wow Trail
Watersmeet, Michigan 49969

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Martin:

Thank you for your November 19, 2007 letter responding to our request for information about potential traditional cultural or historic properties in the Eagle Mine project area. In your letter your office officially requested that the Lac Vieux Desert Tribe be made a consulting party in the project. We agree that it would be appropriate for U.S. EPA Region 5 to consult with Lac Vieux Desert Tribe about the cultural properties you mention.

As we described in our October, 31, 2007 letter, the Water Division is presently reviewing an application for a federal Underground Injection Control (UIC) permit for the project. This review also includes ensuring compliance with the National Historic Preservation Act (NHPA). Consultation with Keweenaw Bay Indian Community was initiated as part of the NHPA process on December 13, 2007. Our goal during the consultation with the Lac Vieux Desert Tribe is to hear from you about the following issues related to the mining project:

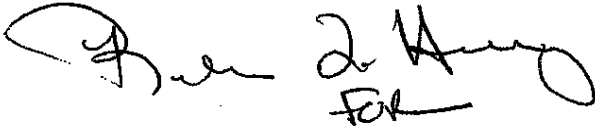
- Any concerns about historic properties;
- Identification and evaluation of historic properties, including those of traditional religious and cultural importance;
- Views regarding the effects on such properties, and, if applicable;
- Suggestions for resolution of any adverse effects.

Representatives of our office would be available to meet with you and other Tribal representatives within the next 30 days. I have asked Ross Micham of the UIC program to contact you to arrange a mutually convenient time and place for the consultation. In the meantime, we would also be happy to receive any further information about the cultural properties in advance of our meeting. Any material should be sent to:

Ross Micham
Water Division (Mail Code: WU-16J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

We look forward to our discussions with you on these issues. If you have any questions or comments, please feel free to contact me or Ross Micham. Ross can be reached at (312) 886-4237 or by email at micham.ross@epa.gov.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde". The signature is fluid and cursive, with a large initial "T" and "H".

Tinka G. Hyde
Acting Director, Water Division

Cc: James Williams, Jr., Tribal Chairman

KEWEENAW BAY INDIAN COMMUNITY

MEMBER LIST

CLARENCE A. HURMER, President
WALTER L. SWARTZ, JR., Secretary
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16429 Beartown Road
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ELIZABETH "CHIZ" MATTHEWS
ELIZABETH D. MAYO

January 4, 2008

Rebecca A. Humphries, Director
Michigan Department of Natural Resources
Stevens T. Mason Building
P.O. Box 300028
Lansing, Michigan 48909-7528

Re: Government to Government Consultation regarding the proposed Kennecott Sulfide Mine

Dear Director Humphries,

The Keweenaw Bay Indian Community, is a sovereign nation and a federally recognized Indian tribe, having government to government relations with the United States of America and the State of Michigan. The Community requested consultation with the State of Michigan by the Community's letter to Governor Granholm, dated November 2, 2007, a copy of which is enclosed, in connection with the state's proposed actions regarding Kennecott Eagle Mine.

The Community would like to thank you for the opportunity to consult with you and the staff of the Department of Natural Resources regarding the Department's consideration of the approval of (i) the proposed surface use lease by the Department to Kennecott ("Surface Lease") and (ii) the Mining and Reclamation Plan submitted to the Department by Kennecott pursuant to the Metallic Mineral Lease (M602).

The Community, together with the National Wildlife Federation and the Huron Mountain Club, submitted to the Governor, the Michigan Department of Environmental Quality and the Department of Natural Resources Combined Comments In Opposition to the Mining, Air Use and Groundwater Discharge Permits, dated October 17, 2007, ("Combined Comments"), which are incorporated herein for the purposes of this consultation.

As pointed out in the Community's letter to Governor Granholm the sulfide mine, which has been proposed by Kennecott, will have significant adverse and cumulative impacts on the natural resources, environment and traditional cultural resources in the Yellow Dog Plains, including the following:

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

002724

- Destruction of important wetlands and tributaries to the Salmon Trout River;
- Leaching of acids and metals into the groundwater feeding the Salmon Trout River resulting in harm to plants, fish, and wildlife;
- Collapse of the mine (which, again, is directly below the Salmon Trout River), which will permanently alter the river and surrounding wetlands and further contaminate the river with acid and other pollutants from the mine;
- Contamination of groundwater and surface waters due to potentially inadequately designed treatment systems and wastewater discharges larger than estimated by Kennecott;
- Human consumption of contaminated water through local drinking water wells that were not addressed in Kennecott's applications; and
- Blanketing of the surrounding area with airborne particulate matter, nickel, and copper.

These significant adverse impacts to the natural resources of the Yellow Dog Plains resulting from the proposed mine will directly and adversely affect the rights of the members of the Community to hunt, fish and gather in the Yellow Dog Plains, rights reserved to the members of the Community in the Treaty of 1842.

Moreover and of extreme importance to the Community, its members and other members of Ojibwa tribes in northern Michigan, Wisconsin, and Minnesota, is that the issuance of the permits for the construction and operation of the Eagle Mine will allow the desecration, impairment and destruction of a sacred area that is known to the Ojibwa as *Migi zii wa sin* ("Eagle Rock"). Under Kennecott's mining application, Kennecott proposes to drill and blast the entrance portal for the mine directly into *Migi zii wa sin*. In addition, *Migi zii wa sin* will be fenced off with very restricted access, if any, to this culturally sacred site for the members of the Community and other Ojibwa. *Migi zii wa sin* has been identified by the Community as a cultural and sacred site, which is a Traditional Cultural Property eligible for listing on the National Register. However, Kennecott, contrary to the requirements of the MDEQ rules issued under the applicable mining statute, has not listed *Migi zii wa sin* as a "cultural, historical or archaeological resource" in its Environmental Impact Assessment ("EIA") as required by the applicable rules. Accordingly, MDEQ must not issue a final decision granting the mining permit for this reason alone.

The construction and operation of Kennecott's proposed mine would also result in the denial of public access to, and essentially the privatization of, State forest land that is held in the public trust and which is currently (and has been for hundreds of years) used by the public for recreational, hunting, gathering, and religious purposes.

In connection with the consultation with the Department, which is to take place on Monday, January 7, 2008, the Community submits to the Department, by this letter, two documents for your consideration. The enclosed documents are titled (i) Adverse Impacts on DNR Surface Lands and Natural Resources by Kennecott's Mining Operation and (ii) Assessment of *Migi zii wa sin* (Eagle Rock). These documents discuss the adverse impacts of the proposed mining operation on the lands and natural resources that will be subject to the Surface Lease; the deficiencies associated with the Mining Reclamation Plan; and the failure of Kennecott to consider the impacts and cumulative impacts of the proposed sulfide mine on *Migi zii wa sin* (Eagle Rock) which is a traditional cultural resource eligible for listing on the National Historic Register.

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Given the Department's public trust responsibilities, the statutory and legal restrictions on the Department, the express conditions/restrictions contained in the Metallic Mineral Lease M602, and the requirements of Department's policies and procedures applicable to the Surface Lease, the Department can not approve the Surface Lease and the Mining and Reclamation Plan because the proposed mine is "likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust therein", including the air, water and other natural resources, in, on and around the land which is owned by the state and is proposed to be leased to Kennecott under the Surface Lease.

In light of the adverse impacts of the proposed sulfide mine, as discussed above, in the Combined Comments, and in the enclosed documents, approving the Surface Lease and the Mining and Reclamation Plan will violate a number of applicable state statutory provisions and requirements, including the public trust responsibilities of the Department contained in the Natural Resources and Environmental Protection Act to "protect the natural resources of the state [and] prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose"; the longstanding prohibition, contained in both the Michigan Environmental Protection Act and Part 632, against allowing pollution, impairment, or destruction of "the air, water, and other natural resources and the public trust in these resources"; and the requirement under Part 632 for Kennecott to consider the adverse impacts and the cumulative adverse impacts of the construction and operation of the mine on Migi zii wa sin (Eagle Rock). The Department is, therefore, clearly legally *prohibited* from approving the Surface Lease and the Mining and Reclamation Plan.

For the reasons discussed above, the Department should not approve the Surface Lease or the Mining and Reclamation Plan.

Again, the Community appreciates the opportunity to consult with you and the Department concerning these extremely important issues.

Sincerely,


Susan J. LaPernier,
President

cc: John Wernet, Governor's Deputy Legal Counsel

002726

Via Hand Delivery

January 9, 2008

Michigan Natural Resources Commission
Executive Division
530 W. Allegan Street
Lansing, MI 48909
Attn: Teresa Gloden

Re: Opposition to Michigan Department of Natural Resources Approval of a Proposed Surface Use Lease and Mining and Reclamation Plan Requested by the Kennecott Eagle Minerals Company

Dear Members of the Commission:

This firm represents the Keweenaw Bay Indian Community ("Community") in matters pertaining to a proposed sulfide mineral mine in the Yellow Dog Plains, Michiganme Township, Marquette County, Michigan. The developer of the proposed sulfide mine, Kennecott Eagle Minerals Company ("KEMC"), has applied to the Michigan Department of Natural Resources ("MDNR") for a Surface Use Lease ("Lease") and for approval of a Mining and Reclamation Plan ("Reclamation Plan"). Our review of the agenda for the January 10, 2008 public meeting of the Natural Resources Commission ("Commission") reveals that the Lease and Reclamation Plan will be topics of discussion at that meeting. While the MDNR Director has the authority to approve or deny the Lease and Reclamation Plan, the Commission has an advisory role concerning the Department's approval or denial of the Lease and Reclamation Plan.

The purpose of this letter is to request that the Commission exercise its advisory authority to oppose the pending Lease and Reclamation Plan or, alternatively, to request that the Director conduct a more considered investigation of the substantial adverse impacts that approval of the Lease and Reclamation Plan will have on the natural resources in the affected mine area, including the lands which are the subject matter of the Lease, and on the religious, cultural, and historical interests of the Community at the site, and to carefully reconsider whether MDNR can legally or should, as a matter of policy, approve the Lease and Reclamation Plan in light of those adverse impacts.

Such a recommendation will not cause delay or impact KEMC's ability to commence activities related to the proposed mine. The Community, together with the National Wildlife Federation ("NWF"), the Huron Mountain Club ("HMC"), and Yellow Dog Watershed Preserve, Inc. ("YDWP"), have challenged certain environmental permits associated with the proposed mine that were issued by the Michigan Department of Environmental Quality ("MDEQ") on December 14, 2007, and those permits, which are necessary in order to construct and operate the mine, are not effective pending resolution of those legal challenges. These challenges offer additional time for the MDNR to more carefully review the adverse impacts on State land that will

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Michigan Natural Resources Commission
January 9, 2008
Page 2

likely be caused by the operation of the proposed sulfide mine. These adverse impacts are discussed in detail in the Combined Comments of the Community, the NWF and HMC In Opposition to the Proposed Issuance of Mining, Air Use, and Groundwater Discharge Permits Requested by Kennecott Eagle Minerals Company dated October 17, 2007 ("Combined Comments") and in the Community's communications to Michigan Governor Jennifer Granholm dated November 2, 2007 and to MDEQ Director Steven Chester dated October 15, 2007 ("Communications"), which communications are attached to this letter. These documents describe the substantial adverse impact the proposed sulfide mine will have on the natural resources located on the State lands that are proposed for lease to KEMC, including Migi zii wa sin ("Eagle Rock"), an important cultural and sacred site known to be a Traditional Cultural Property eligible for listing on the National Register.

Not only should MDNR defer its decision on the Lease and Reclamation Plan until after the legal challenges are resolved, but when the time does come to make its decision, MDNR should refuse to approve the Lease and Reclamation Plan – and the Commission should recommend as such to MDNR. As set forth in the Combined Comments and the Communications, the proposed mine will be structurally unsafe, will likely cause significant and permanent damage to the groundwater, surface water, flora and fauna in and around the mine, and will also directly threaten human health. At a minimum, KEMC has failed to carry its burden to show that the mine will not damage or destroy the State's natural resources. Significant potential harms resulting from the proposed mine include:

- Destruction of important wetlands and tributaries to the Salmon Trout River;
- Leaching of acids and metals into the groundwater feeding into the Salmon Trout River, and resulting harm to plants, fish, and wildlife;
- Collapse of the mine (which will be directly under the Salmon Trout River), which will permanently alter the course of the river and also further contaminate the river with acid and other pollutants from the mine;
- Contamination of groundwater and surface waters due to inadequately designed treatment systems and wastewater discharges in much greater volumes than estimated by Kennecott;
- Human consumption of contaminated water through local drinking wells that were not addressed in Kennecott's applications; and
- Blanketing of the surrounding area with airborne particulate matter, nickel, and copper.

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Michigan Natural Resources Commission

January 9, 2008

Page 3

Moreover, and of extreme importance to the Community, its members and other members of the Ojibwa tribes in northern Michigan, Wisconsin and Minnesota, is the potential desecration, impairment and destruction of Eagle Rock. Under its current Reclamation Plan, KEMC will drill and blast the entrance portal for the mine directly into Eagle Rock. In addition, public access to Eagle Rock will be prevented by fencing around Eagle Rock by Kennecott until cessation of mining and reclamation operations, thereby depriving native Americans of the right to use this important and culturally sacred site for many years to come.

In light of the adverse impacts of the proposed sulfide mine as discussed in this letter, in the Combined Comments, and in the enclosed documents, the Community believes that the approval of the Lease and Reclamation Plan will violate a host of applicable statutory provisions and requirements, including MDNR's public trust duties contained in the Natural Resources and Environmental Protection Act to "protect and conserve the natural resources of this state; ... prevent the destruction of timber and other forest growth by fire or otherwise; ... prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose ... and foster and encourage the protecting and propagation of game and fish." M.C.L. §324.503(1); *see also Michigan Oil v. Natural Resources Comm'n*, 71 Mich. App. 667, 680-681 (those duties serve as restriction upon MDNR authority over whether to allow, and the terms and conditions of allowing, mining on State lands). Therefore, we believe that MDNR is legally prohibited from approving the Lease and Reclamation Plan.

Delaying MDNR's decision on the approval of Lease and Reclamation Plan until the legal challenges are resolved is also essential in order for MDNR to make an informed decision on whether to approve the Lease and the Reclamation Plan. The outcome of the challenges to the MDEQ permits may result in one or more of those permits not being granted, or being granted with materially different terms and conditions than originally imposed by MDEQ. If MDNR were to make its decision on the Lease and Reclamation Plan before the challenges were resolved, then MDNR's decision would have been made without an accurate understanding of the environmental requirements applicable to the proposed mine. In addition, the terms and conditions of the Reclamation Plan (if approved) would likely be inconsistent with what is ultimately allowed under the MDEQ permits.

In conclusion, we request that the Commission exercise its advisory authority to oppose the pending Lease and Reclamation Plan or, alternatively, to request that the Director conduct a more considered investigation of the substantial adverse impacts that approval of the Lease and Reclamation Plan will have on the natural resources of the state and the religious, cultural, and historical interests of the Community at the site, and to carefully reconsider whether MDNR can legally, or should as a matter of policy, approve the Lease and Reclamation Plan in light of those impacts.

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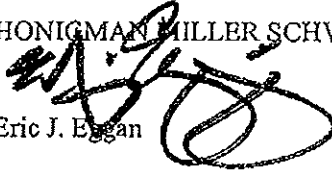
Michigan Natural Resources Commission
January 9, 2008
Page 4

Thank you for your consideration.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

Eric J. Egan



EJE/rah

c: Governor Jennifer Granholm
Rebecca A. Humphries, Director, MDNR
Susan J. LaFernier, President, Keweenaw Bay Indian Community



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

COPY

JAN 14 2008

REPLY TO THE ATTENTION OF MAILCODE:
WU-16J

CERTIFIED MAIL 7001 0320 0006 0186 8251
RETURN RECEIPT REQUESTED

Victoria Raske
Tribal Historic Preservation Officer
Grand Portage Band of Chippewa
P.O. Box 428
Grand Portage, Minnesota 55605

**Re: National Historic Preservation Act Compliance
Kennecott Eagle Minerals Company; Eagle Mine Project; Marquette County,
Michigan; U.S. EPA Permit Application Number MI-103-5W20-0002**

Dear Ms. Raske:

The U.S. Environmental Protection Agency (EPA) is in the process of reviewing a permit application and all related material in order to prepare a draft federal Underground Injection Control permit decision for the underground discharge of treated industrial waste water. This discharge system is proposed to be part of the above referenced project that is shown on the enclosed maps. The purpose of this letter is to request information about any potential traditional cultural or historical properties that may be eligible for protection under the National Historic Preservation Act of 1966 that are located within the project area.

The Keweenaw Bay Indian Community's (KBIC) Tribal Historic Preservation Officer has indicated that there may be traditional cultural properties in the proposed project area that are relevant to the Ojibwa Nation. EPA has agreed to consult with KBIC about this issue. We would like to know if your Band has a traditional religious or cultural significance attached to a historic property that may be affected by the project and therefore would be interested in consultation with EPA.

Please contact me within 30 days if you may have any information to satisfy this request. If you have any questions or concerns please feel free to contact me or Ross Micham of my staff at (312) 886-4237, or by email at micham.ross@epa.gov.

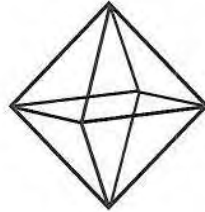
Sincerely yours,

A handwritten signature in cursive script that reads "Tinka G. Hyde". Below the signature, the word "FOR" is written in a smaller, simpler font.

Tinka G. Hyde
Acting Director, Water Division

Enclosures

Jonathan C. Cherry, P.E.
Manager Environment and Governmental Affairs
Kennecott Eagle Minerals Company
1004 Harbor Hill Drive
Suite 103
Marquette, Michigan 49855
Phone: 906-225-5791
Email: Cherryj@Kennecott.com



Kennecott Eagle Minerals

January 21, 2008

Ms. Lynn Boyd , Division Chief
Forest Mineral and Fire Management Division
Michigan Department of Natural Resources
Steven T. Mason Building
Post Office Box 30028
Lansing, Michigan 48909

Re: **Requested Clarifications on Kennecott Eagle Minerals Company Mining and Reclamation Plan (MRP)**

Dear Ms. Boyd:

Kennecott Eagle Minerals Company ("Kennecott") provides this letter in response to the Michigan Department of Natural Resources ("MDNR") request for clarification of certain items in Kennecott's MRP, as set forth in Mr. Thomas Wellman's December 11, 2007 correspondence to me and in subsequent discussions between the MDNR and Kennecott. Specifically, this letter encloses Kennecott's alternatives analysis of various locations for the mine portal and surface facilities. Based on our discussions, we understand (and with this letter confirm) that the MDNR has determined that the other clarifications requested in Mr. Wellman's December 11 letter are no longer necessary and will be deferred to the Department of Environmental Quality's ("MDEQ") regulation of the mine under Part 632 and other NREPA authorities.

For a detailed narrative summary and tabular illustration of the various location alternatives considered and a description of the criteria that Kennecott used to guide its analysis, see the enclosures. The basic rationale Kennecott used to select the proposed location embodied in Kennecott's issued permits is as follows:

- **The mine portal and surface facilities should be located in close proximity to each other and in one watershed if possible.** The selected alternative (and all of the other alternatives considered) is premised on the principle that keeping the portal and surface facilities in close proximity to each other and in one watershed is preferable to moving surface facilities to a location removed from the mine site or splitting facilities at the mine site across watersheds. This decreases the

footprint of the project from an environmental and reclamation perspective and reduces truck traffic on public roads. While it might be technically feasible to transport ore to surface facilities on private land some miles away from the mine, such a plan will substantially expand and complicate the environmental impact analysis needed to support the mining permit and result in a much broader and more significant environmental impact.

- **The currently proposed alternative is the most environmentally protective alternative, particularly with respect to management of treated wastewater associated with mine operations.** As you know, mine operations will entail the discharge of treated wastewater associated with the mine to groundwater under a Part 22 groundwater discharge permit issued by MDEQ. This discharge is required by this permit to meet drinking water standards prior to discharge. The selected surface facility location offers an optimal location for the discharge of this wastewater due to an 80-100 foot zone of unsaturated soils in the area of the discharge. This is a substantially thicker unsaturated zone (up to twice as thick) than is present at alternative locations for the surface facilities. This geologic feature will help prevent mounding of the treated discharge and localized modification to natural groundwater flow contours in the area. In addition, the discharge area in the selected alternative is located farther away from surface waters (6,800 feet), than other alternative locations, providing years of transit time for any theoretical migration and "venting" of discharge constituents to surface waters from groundwater, thereby ensuring that all applicable discharge criteria will be met at the venting location. In short, the selected location for the surface facilities will help ensure that the groundwater discharge associated with the mine will have no discernable impact on groundwater in the area of the discharge or on surface water.
- **The selected portal location involves no disturbance to the facing of the outcrop, minimal disturbance of surface and less blasting for portal construction.** As to portal location, Kennecott's first priority is the structural integrity of the decline and safely accessing the ore body. All of the location alternatives meet this objective, but certain locations will require substantially more surface disturbance and blasting to do so. The selected location involves a minimal disturbance of the surface, no disturbance of the outcrop and less blasting for portal construction than the other alternatives. This, in turn, means less environmental and aesthetic impacts because of lower erosion risks associated with a higher volume of staged soils, less waste rock, leaving more existing vegetation intact, and minimizing visual impacts. Minimization of surface soil/vegetation disturbance also leaves a much smaller "footprint" in the portal area that will have to be reclaimed.

- **The selected surface facility location is located in an area that was recently clear cut and is screened from the closest public road.** Despite the fact that the entire area has been recently clearcut, the selected location for the surface facility is the only alternative that is screened from the Triple A road by the outcrop and trees on the outcrop, rendering the selected location a superior location from an aesthetic standpoint.

I hope this summary of Kennecott's selection rationale and the enclosed alternatives analysis provides the clarification requested in Mr. Wellman's December 11th letter and subsequent discussions. If you are in need of any additional clarification or wish to discuss the alternatives analysis any further, please do not hesitate to contact me.

Sincerely,



Ka
Cc: Mindy Koch
Tom Wellman
Jim Sygo
Hal Fitch

KENNECOTT EAGLE MINERALS COMPANY'S FACILITY LOCATION ALTERNATIVES ANALYSIS

The location of the surface facilities for the proposed Eagle Mine is based on two overriding considerations. First and foremost, the location of the mine portal must enable Kennecott to safely access the underground resource. Second, the portal and surface facilities must be located to minimize potential environmental impacts associated with mine operations. In addition to these primary objectives, Kennecott considered several other factors in evaluating alternative locations for the portal and surface facilities, including minimization of aesthetic impacts and impact of locations on future reclamation activities.

With these considerations in mind, Kennecott carefully reviewed and rejected the alternative of locating the portal and surface facilities on Kennecott property directly above or in close proximity to the ore body itself, since this would require the filling and/or substantial alteration of wetlands above the ore body and adjacent to the Salmon Trout River Main Branch. Kennecott also, after careful consideration, rejected the alternative of locating surface facilities on land some distance from the portal and mining area since this would markedly increase the environmental footprint of the overall operation, require duplicate engineered systems for managing water treatment and ore storage, and increase transportation requirements on public roads. Kennecott's alternatives analysis therefore focused on locating surface facility features close to various mine portal options. This analysis is illustrated in tabular form in the attached matrix, and the six locations considered are depicted in Figure 1. The following provides a narrative description of the mine portal options and paired alternatives for surface facility locations. The criteria used to evaluate the portal and related facility options are also described.

Portal options.

1. **Outcrop west face, underground entry:** For this option, the entry into the steep west portal rock face is below current grade. A steel arch originates approximately 37 meters west of the outcrop rock and begins a 15% decline such that the portal rock face entry is below current grade. The surface disturbance from portal construction is minimal for this configuration. Reclamation of this option would leave no visible evidence on the outcrop above the natural restored grade. This portal option is associated with Facility Location Alternatives 1 and 4.
2. **Outcrop west face, aboveground entry:** The entry into the steep west portal rock face would be at the current grade. A relatively short (5 to 10 meter) steel arch would enter the portal rock face near grade with the decline beginning under the outcrop. The surface disturbance from the portal construction would be minimal. However, disturbance to the outcrop itself (above grade) would be significant. Reclamation would mitigate the disturbance to the outcrop, but evidence of restoration would be visible at the portal rock face entry. This portal option is associated with Facility Location Alternative 2.
3. **Outcrop east face, underground entry:** The portal entry below ground into the gently sloped east outcrop face would require a steel arch longer than the arch proposed in the

outcrop west face associated with Facility Location Alternatives 1 and 4. The shallow entry angle with the outcrop rock would require more support than the steeper entry angle available on the west face. Additionally, more near surface blasting (thus more disturbance) would be required to install the portal. Reclamation of this option would leave no visible evidence on the outcrop above the natural restored grade. This portal option is associated with Alternatives 3 and 5.

4. **Vertical Shaft:** A vertical shaft would have to be located in close proximity to the ore body. The shaft would be equipped with hoists and elevators to enable material and personnel transport. To address water entry into the shaft from saturated alluvium, isolation methods would have to be employed to keep the shaft dry. Surface disturbance from this option is minimal, but the shaft would intersect an aquifer and move traffic and other activities associated with surface operations (such as staging and transfer of ore) much closer to wetlands and the Salmon Trout River Main Branch. Reclamation of this option would leave no visible evidence of disturbance. This portal option is associated with Facility Location Alternative 6.

Surface facility options.

Location of surface facility options paired with portal options are set forth as Alternatives 1 through 6 on Figure 1. As noted above, these alternative pairings were developed based on the basic design goal of keeping the portal and surface facilities within reasonably close proximity to each other and thereby minimizing the footprint of mine operations. The alternative combinations of surface facility and portal locations were evaluated based on several different criteria, the most important of which were:

Portal Safety. As noted above, this is the primary overarching criterion driving selection of portal location. As delineated in the attached table, all portal locations would enable Kennecott to access the ore body safely, but the design and construction methods differ significantly for certain options. These differences, in turn, have a substantial impact on other criteria considered.

Groundwater Protection: Available Unsaturated Zone for Groundwater Discharge. The Eagle Project proposes a groundwater discharge of treated water generated from planned mining activities. Treated water will be discharged within the main facility in a Treated Water Infiltration System (TWIS). The maximum design discharge rate is 504,000 gallons per day (MDEQ Groundwater Discharge Permit No. GW1810162). This discharge requires an adequate thickness of unsaturated soils so that discharge into that layer in all expected conditions would never produce mounding that intersects the ground surface. Although each Alternative provides adequate TWIS discharge media, locations with thicker unsaturated soils will further reduce mounding risk.

Surface Water Protection – Distance of Discharge to Closest Surface Water Downgradient of Facility. The Eagle Project has been designed to operate in a manner protective of the environment by incorporation of many engineering design and controls and operational practices in routine and atypical scenarios. Nevertheless, in an atypical situation, the distance from the facility to the closest surface water (in this case, the Salmon Trout River Main Branch) influences the risk to that surface water. Each alternative will provide a high degree of environmental protection. However, a longer distance between the facility and the nearest downgradient surface water substantially decreases any environmental risk associated with an atypical scenario.

Watershed Location. The immediate area of the Eagle ore body is in close proximity to a sub watershed divide between the Salmon Trout River Watershed and the Yellow Dog River Watershed. Locating the surface facilities and portal within one watershed, is, in Kennecott's view, preferable to splitting the facility between two watersheds.

Aesthetics. Aesthetic considerations include the visibility of the project and noise exposure to surrounding publicly accessible locations. The ability to manage negative aesthetics is evaluated for each alternative. Triple A Road is the public road adjacent to the project (Figure 1), therefore proximity to it influences the ability to manage aesthetics. The presence of the outcrop between the facility operations and Triple A Road also influences the resulting visual and noise aesthetics.

Prior Disturbance of location. The area surrounding the Eagle ore body has been clear cut fairly recently. The quantity of tree removal and level of modification to current habitat has been addressed in this criterion. Figure 1 is a high-resolution photograph background upon which a high-level visual evaluation can be made of each alternative location. Further details of the flora and fauna in this area are described in the EIA.

Ownership of Surface and Mineral Rights. The ability to legally use and access the surface and subsurface locations considered is addressed in this criterion. Although Kennecott does not own the surface of five of the six alternatives locations considered, it owns or leases the mineral rights under each location. Under the terms of its mineral leases with the state under these areas, Kennecott has the right to construct and operate surface facilities so long as the facilities and the leased minerals being extracted comprise "a common mining operation" area. Although Kennecott and the DNR do not agree as to whether the Eagle project operation comprises a common mining operation area as defined in the pertinent leases, Kennecott does not believe, based on discussions with MDNR, that this disagreement will prevent Kennecott from building and operating surface facilities at the location alternatives considered. Nonetheless, it was one of the criterion Kennecott used in its evaluation.

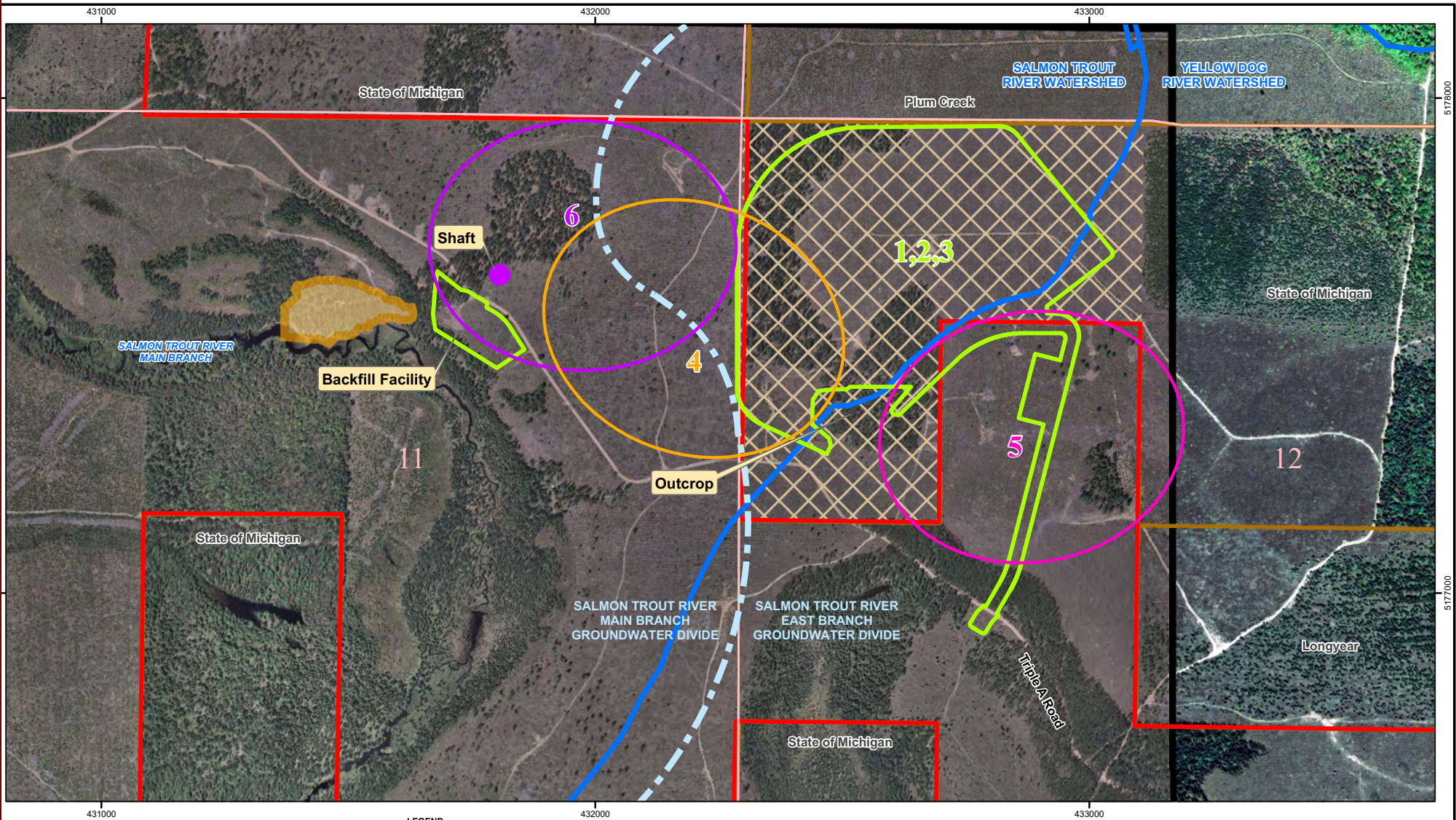


Client: Kennecott Eagle Minerals Company Scope ID.: 04W018
 Project: Eagle Project
 Prepared by: AKM Date: 01/17/08
 Checked by: SVD1 Date: 01/17/08

Criteria									
Alternative	Surface Owner	Underlying Metallic Mineral Rights	Surface Disturbance from Portal Construction	Portal Construction Engineering	Available Unstaturated Zone for Groundwater Discharge	Distance to Closest Surface Water Downgradient (in feet)	Located in This Watershed	Aesthetics (Visual and Noise) and Public Safety	Current Site Condition
1 Current Location, portal entry on west side of outcrop, underground entry.	State	State (KEMC Metallic Minerals Lease No. M-00603*)	Minimal disturbance, reclamation not visible.	enter bedrock at perpendicular face, less blasting required	Unstaturated zone at TWIS 80-100 ft.	6,800 feet	Salmon Trout River	Located away from Triple A, screened by outcrop and trees.	Recently clear cut, minimal tree removal required.
2 Current Location, portal entry on west side of outcrop, aboveground entry.	State	State (KEMC Metallic Minerals Lease No. M-00603*)	Minimal disturbance, reclamation is visible.	enter bedrock at perpendicular face, less blasting required	Unstaturated zone at TWIS 80-100 ft.	6,800 feet	Salmon Trout River	Located away from Triple A, screened by outcrop and trees.	Recently clear cut, minimal tree removal required.
3 Current Location, portal entry on east side of outcrop, underground entry.	State	State (KEMC Metallic Minerals Lease No. M-00603*)	Moderate disturbance, reclamation not visible.	enter bedrock at shallow angle, more support required, more blasting required	Unstaturated zone at TWIS 80-100 ft.	6,800 feet	Salmon Trout River	Located away from Triple A, screened by outcrop and trees.	Recently clear cut, minimal tree removal required.
4 Location west of current location, portal entry on west side of outcrop, underground entry.	KEMC	State (KEMC Metallic Minerals Lease No. M-00603*) AND KEMC	Minimal disturbance, reclamation not visible.	enter bedrock at perpendicular face, less blasting required	Unstaturated zone at TWIS 40-60 ft.	6,700 feet	Salmon Trout River	Close to Triple A, unscreened.	Recently clear cut, minimal tree removal required.
5 Location southeast of current location, portal entry on east side of outcrop, belowground entry.	KEMC/STATE	State (KEMC Metallic Minerals Lease No. M-00603*) AND KEMC	Moderate disturbance, reclamation not visible.	enter bedrock at shallow angle, more support required, more blasting required	Unstaturated zone at TWIS 60 ft.	6,700 feet	Salmon Trout River and Yellow Dog River	Close to Triple A, unscreened, close to wetland.	Recently clear cut, minimal tree removal required.
6 Location west of current location, on KEMC land , vertical shaft access.	KEMC	KEMC	Minimal disturbance, reclamation not visible.	must grout, freeze or otherwise isolate saturated alluvium to enter bedrock	Unstaturated zone at TWIS 40-50 ft.	3,900 feet	Salmon Trout River	Close to Triple A, unscreened, close to wetland.	Recently clear cut, minimal tree removal required.

*MDNR Metallic Minerals Lease No. M-00603 grants the lease holder the right to develop surface facilities related to the mineral lease.

Shaded areas indicate optimum levels of that criteria.



NOTES

Surface Rights Boundary, Ore Body and Orthophotography supplied by Kennecott via Golder Associates Inc., August, 2005. Horizontal datum based on NAD 83/94. Horizontal coordinates based on UTM Zone 16. Property Ownership supplied from Kennecott and Coleman Engineering
 Site Location - Project Site within Sections 11 & 12, T50N, R29W, Michigamme Township, Marquette County, Michigan.

LEGEND

- Eagle Ore Body
- Kennecott Surface Ownership
- Other Surface Ownership
- Section Lines
- State Leased Area
- Subwatershed Divide
- Groundwater Divide
- Alternative #1, #2, #3
- Alternative #4
- Alternative #5
- Alternative #6

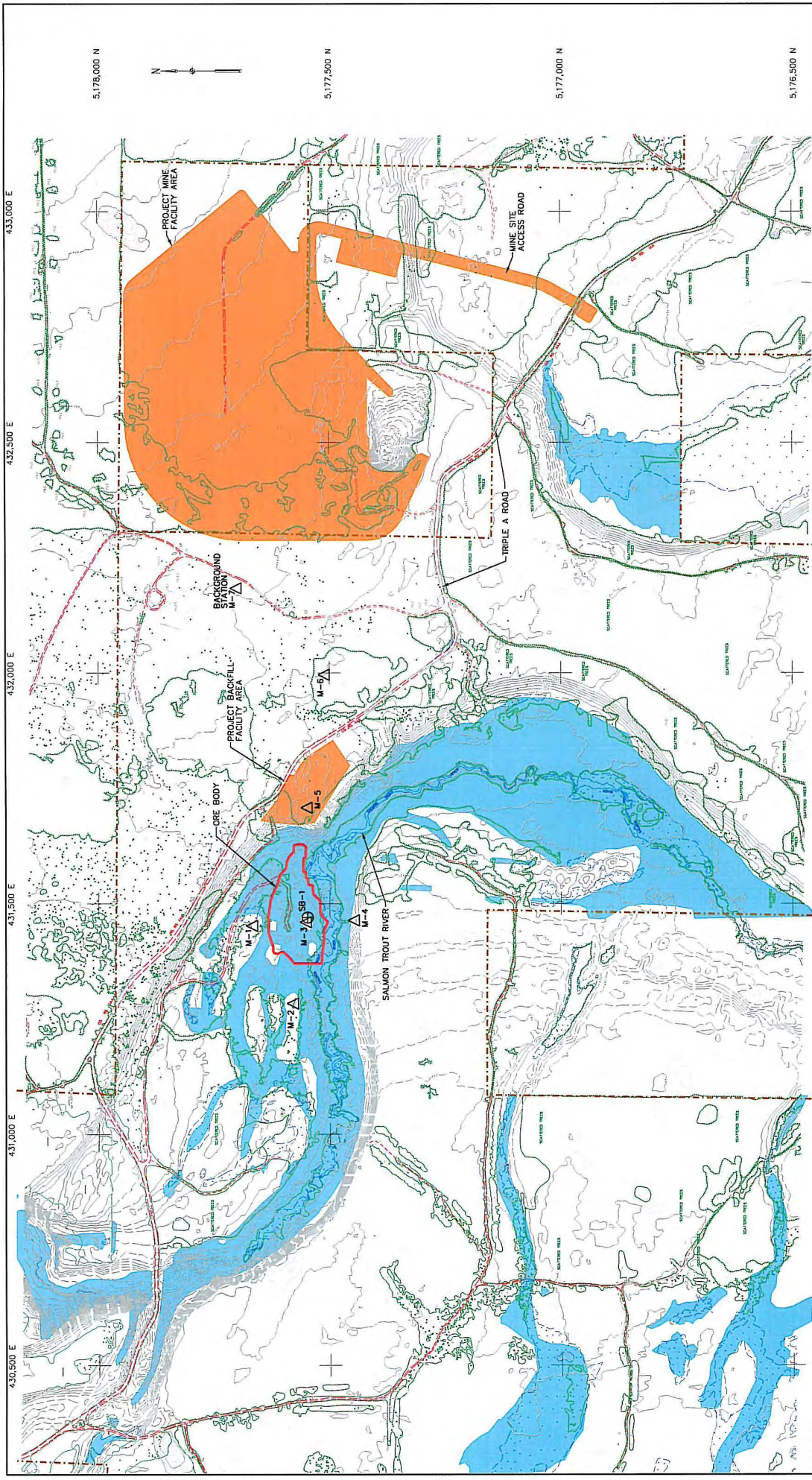


Foth Infrastructure & Environment, LLC			
REVISED	DATE	BY	DESCRIPTION
CHECKED BY:	AKM	DATE:	JAN, '08
APPROVED BY:	SVD1	DATE:	JAN, '08
APPROVED BY:		DATE:	



FIGURE 1
 PROJECT SURFACE OWNERSHIP
 AND LOCATION ALTERNATIVES

Scale: 0 300 600 Feet
 Date: JANUARY, 2008
 Prepared by: DAT
 Project No: 04W018



NOTES:

1. TOPOGRAPHIC AND PLANIMETRIC DATA OBTAINED BY AERIAL PHOTOGRAPHIC ENGINEERING, TEMPE, ARIZONA.
2. MINE PLAN DATA ADAPTED FROM MCKINTOSH ENGINEERING, INC., TEMPE, ARIZONA.
3. SURFACE PROPERTY BOUNDARY AS OF NOVEMBER 18, 2004 SUPPLIED BY KENNEDOTT, INC. APRIL 7, 2005.
4. CONTOUR INTERVAL BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988. HORIZONTAL DATUM BASED ON NAD 83/79.
5. ORE BODY, GROUNDWATER DISCHARGE AREA AND WETLAND BOUNDARY COLLIER & ASSOCIATES, INC. APRIL 7, 2005.

LEGEND:

- EXISTING CONTOUR
- UNPAVED ROAD
- TREE
- WCR MAPPED WETLAND BOUNDARY PROVIDED BY COLLIER & ASSOCIATES, INC. APRIL 7, 2005.
- ORE BODY
- ROAD ELEMENT PROVIDED BY MCKINTOSH ENGINEERING, INC. APRIL 2005
- SB-1 SUBSURFACE BORING NUMBER AND LOCATION
- M-1 SUBSURFACE SURVEY NUMBER AND LOCATION
- GROUNDWATER DISCHARGE INVESTIGATION AREA
- PLANIMETRIC WETLAND NOTATION
- PROPERTY LINE
- PROJECT FACILITY AREA

FIGURE 1
SUBSURFACE MONITORING PLAN

Kennecott
Eagle Minerals

Prepared By: JOW
Date: DECEMBER, 2007
Project No. 04W018

DATE: _____
DATE: DEC. '07
DATE: _____

Checked By: JOSI
Approved By: SVDI

Scale: 0 1000' 2000'

Revised Date: _____
Description: _____

Prepared By: JOW
Date: DECEMBER, 2007
Project No. 04W018

KEWEENAW BAY INDIAN COMMUNITY

2008 TRIBAL COUNCIL

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February 6, 2008

Michigan Natural Resources Commission
Executive Division
530 W. Allegan Street
Lansing, MI 48909
Attn: Teresa Gloden

Re: Opposition to Michigan Department of Natural Resources Approval of a Proposed Surface Use Lease and Mining and Reclamation Plan Requested by the Kennecott Eagle Minerals Company

Dear Members of the Commission:

Kennecott Eagle Minerals Company ("KEMC"), the developer of a proposed sulfide mineral mine in the Yellow Dog Plains, Michigamme Township, Marquette County, Michigan, has applied to the Michigan Department of Natural Resources ("MDNR") for a Surface Use Lease ("Lease") and for approval of a Mining and Reclamation Plan ("Reclamation Plan") related to that mine.

By letter dated January 9, 2008, legal counsel for the Keweenaw Bay Indian Community ("Community") requested that the Natural Resources Commission ("Commission") exercise its advisory authority to oppose the pending Lease and Reclamation Plan. In the alternative, the letter requested that the Commission urge the MDNR Director to conduct a more considered investigation of the substantial adverse environmental, cultural, religious, and historical impacts that approval of the Lease and Reclamation Plan will have, and to carefully reconsider whether MDNR can legally or should, as a matter of policy, approve the Lease and Reclamation Plan in light of those adverse impacts.

On January 10, 2008, the MDNR Director announced that she would postpone any decision on the Lease and Reclamation Plan until several issues related to the proposed mining operation raised in a December 7, 2007 letter from MDNR were addressed by KEMC. A January 28, 2008 letter from MDNR, which attached several documents that had been submitted

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

to MDNR by KEMC, indicated that those issues have been resolved to MDNR's satisfaction. Neither MDNR's letter, nor the associated documents from KEMC, adequately address the concerns that were raised by the Community in its January 9, 2008 letter and presented to MDNR during a government-to-government consultation on January 7, 2008.

Our review of the agenda for the February 7, 2008 public meeting of the Commission reveals that the Lease and Reclamation Plan has been rescheduled for discussion at that meeting. For the reasons discussed in our January 9, 2008 letter, and as further explained below, the Community again requests that the Commission exercise its advisory authority and oppose the pending Lease and Reclamation Plan.

A. Neither KEMC Nor MDNR Have Provided Any Valid Reason Why Eagle Rock And State Land Must Be Used For This Project

MDNR's approval of the Lease will allow the construction of mining-related surface facilities on State land and the drilling of a mine entry "portal" through Migi zii wa sin ("Eagle Rock"), a sacred site of paramount cultural importance to the Community that is known to be a Traditional Cultural Property eligible for listing on the National Register, even though KEMC has recognized that there are feasible alternative locations that would not use State land or impact culturally important sites. The rationale for selecting the currently proposed location is set forth in a January 21, 2008 letter and "location alternatives analysis" from KEMC, which was attached to MDNR's January 28, 2008 letter and was apparently adopted by MDNR. The Commission should oppose the location of those facilities because neither KEMC nor MDNR have identified a valid reason to support the use of State land and impacts to Eagle Rock. In addition, alternative locations pose clear advantages that were not addressed by either KEMC or MDNR in the January 28, 2008 letter and associated documents.

I. Portal Location

As stated in our January 9, 2008 letter, many mines in this country and overseas utilize vertical shafts for all transportation and movement of men, materials, equipment and rock between the surface and the underground mining levels. In KEMC's initial December 14, 2007 response to MDNR's request for a rationale for the proposed location, KEMC did not even consider the option of a vertical shaft. KEMC's January 21, 2008 response to MDNR briefly addresses the vertical shaft option, but its rationale for dismissing that option is deficient in several respects.

KEMC's rationale is premised on its statement that "[a] vertical shaft would have to be located in close proximity to the ore body." That statement is not true and, in fact, the opposite is true. Vertical shafts are conventionally placed a significant distance from the ore body, because large scale underground mining operations like KEMC's proposed mine can cause large rock mass movement in the area surrounding the ore body. That movement, in turn, would threaten the stability of the shaft's elevator (cage) guides, which keep the elevators centered in the shaft and are very susceptible to any movement in the surrounding rock. Shaft locations are, therefore, often hundreds of meters away from ore body mining. This distance would give

KEMC considerable leeway to locate the vertical shaft collar and surrounding surface facilities on lands owned by KEMC.

KEMC's brief discussion also states that because the vertical shaft would penetrate an aquifer, that option would require soil stabilization during shaft construction. It is true that soil stabilization would be required, but the Commission should not be misled into believing that the impact would extend beyond such construction considerations. Typically, shafts are lined from the surface down to the top of bedrock and the shaft is completely isolated from the surrounding aquifer.

The vertical shaft option also presents significant advantages that are not recognized or addressed in KEMC's cursory analysis. KEMC represents that its selected option will reduce truck traffic, but does not discuss the fact that by using a vertical shaft, surface truck traffic on the mining site would be virtually eliminated. Ore and development rock brought to the surface by a vertical shaft is typically handled on the surface by conveyor belt systems leading away from the shaft and rock storage bins. This would have the effect of keeping all production truck traffic underground, thereby greatly reducing fuel usage, hydrocarbon exhaust emissions and reducing the generation of dust.

Additionally, the elimination of the portal and long decline tunnel would eliminate much of the Temporary Development Rock Storage Area ("TDRSA"). This surface facility was designed specifically to store development rock, the majority of which would be generated by the long and large diameter decline tunnel from Eagle Rock to the ore body. The elimination of much of the TDRSA, moreover, would eliminate much of the environmental concern related to the TDRSA's generation of acid mine drainage during the years the development rock is stored on the surface. Therefore, the vertical shaft option presents a clear environmental benefit in comparison to the alternative proposed by KEMC.

The vertical shaft option also enhances safety within the shaft during operations. The tight 170 degree turn in the decline tunnel under Eagle Rock, as proposed by KEMC, is not conducive to safety for the many large haul trucks that will be using this decline on a daily (hourly) basis. As currently proposed, KEMC is likely to need a truck traffic control device to assure that two trucks do not enter this steep hairpin turn at the same time. Again, this undesirable design feature would be eliminated by a vertical shaft.

2. Surface Facilities Location

KEMC's January 21, 2008 analysis concludes (and MDNR apparently agrees) that its proposed location is preferable because it is most conducive to the planned groundwater discharge of treated mine wastewater. KEMC asserts that the chosen location is optimal because it will reduce mounding risk (i.e., intersection of mounded groundwater with the ground surface) from that discharge. But KEMC itself admits that "each Alternative provides adequate [groundwater] discharge media" to deal with such mounding - in other words, KEMC believes that any of the alternative sites would be acceptable from a groundwater discharge perspective. Moreover, in its own application materials, KEMC states that it does not believe that mounding will be an issue. Appendix E3 of KEMC's Groundwater Discharge Permit Application predicts

a maximum of 18 feet of mounding from the groundwater discharge, and indicates that mounding below the discharge should never be a problem. And adequate depth to groundwater is substantiated by Figure 19, Unsaturated Isopach, of the *Supplemental Hydrogeologic Study for Groundwater Discharge* (North Jackson Company, January 2006). These modeling conclusions (assuming they are valid) indicate that the northeast corner of KEMC's property – where the vertical shaft option would be located – has more than enough depth to water table for the discharge.

KEMC also claims that it is beneficial to keep the facilities and portal within the same watershed. Assuming that to be true, Figure 1 of KEMC's January 21, 2008 analysis (*Project Surface Ownership and Location Alternatives*), indicates that the facilities can be on KEMC's own land, while still keeping the facilities within the same subwatershed and groundwater divide. This can be accomplished by locating the discharge in the northeast corner of Area 6 (vertical shaft option). Also, contrary to the large difference implied in the location analysis table, the distance and travel time to groundwater discharge is not significant if the discharge were to be located to the west on KEMC's land.

3. The Alternatives "Analysis" Lacks Any Technical Detail

KEMC's alternatives analysis is largely conclusory and lacks any comparison of engineering parameters for selection of the alternatives. The selection of the location alternatives should consider very relevant parameters like cubic meters of soil excavated, meters of tunneling advanced, number of drill, blast and muck cycles, number and size of bedrock structural features intersected requiring grout and or rock support, underground safety considerations, size and frequency of blasting vibration / seismic effects, realistic comparisons of haul truck usage or the very large difference in the thousands of tonnes of development rock which will have to be hauled out of the mine and stored on the surface for years with all the attendant risks of acid mine drainage. KEMC's alternative analysis is very "soft" engineering as if intended for the layman. The Community finds it difficult to understand MDNR's acceptance of KEMC's proposal as the "preferred location" without consideration of the relevant engineering details.

4. MDNR Has Not Addressed The Community's Cultural Concerns

As explained in documents presented to the MDNR during the Community's government-to-government consultation with the State on January 7, 2008 and attached to our January 9, 2008 letter, if MDNR allows the mine portal and surface facilities to be constructed as currently proposed, whole generations of Community tribal members will be deprived of access to Eagle Rock, breaking hundreds of years of cultural tradition. These future tribal members will not know what Eagle Rock is or what it means. They will only be able to look through KEMC's fence at the desecration of a tribal sacred site. Eagle Rock will be desecrated by thousands of truck trips day and night into and out of the rock, desecrated by layers of toxic dust, desecrated by large adjacent electrical generators emitting noise and enveloping the rock with clouds of hydrocarbon exhaust pollution and desecrated by heavy structural steel bolted to the west side of the rock to form the portal entry ramp. All this when there are perfectly feasible, less polluting and economically viable mine designs which totally eliminate the need for and disruption of Eagle Rock and the surrounding State land.

The Community has voiced those concerns to MDNR on several occasions, but MDNR has not offered any response, much less explained whether and how those concerns were considered in determining whether to approve the proposed Lease and Mining and Reclamation Plan. The Commission should not recommend approval of the Lease and Mining and Reclamation Plan without a written response by MDNR setting forth the reasons why MDNR believes that the desecration of Eagle Rock and the associated cultural impacts to Community members should be allowed to occur despite the availability of feasible alternatives.

B. Subsidence Concerns Have Not Been Adequately Addressed

We commend the MDNR for defining subsidence as “any net displacement of one centimeter or more from pre-mining conditions...” and for confirming that “...the standard of deflection allowed under the DEQ Mining Permit is essentially zero movement...” However, there are several major flaws in KEMC’s Subsidence Monitoring Plan as proposed.

The proposed *Monitoring During Mining Operations* (Sec. 2.2 of the Subsidence Monitoring Plan attached to MDNR’s January 28, 2008 letter) states that “[t]he subsidence monitoring data will be maintained on-site and will be available to the Department if requested.” Given the extreme importance of detecting subsidence immediately and the potential of catastrophic collapse due to the local structural geology, we strongly recommend that this data be reported to MDNR on a monthly basis as time versus cumulative displacement plots for each monitoring location and as displacement cross sections with appropriate vertical exaggeration to allow timely analysis.

The proposed *Closure and Post-Closure Monitoring* (Sec. 2.3 of the Subsidence Monitoring Plan) states that “[a]t the end of mining operations monitoring, subsidence monitoring will be reduced...” The greatest risk of subsidence is towards the end of mining operations, when mining on the top levels undercut the crown pillar to its minimum thickness. Risk of subsidence, moreover, will continue for many years after mining ends. The end of mining operations is no time to reduce the subsidence monitoring frequency. Frequent monitoring activities must continue during the Closure and Post-Closure periods.

We disagree with the statement in MDNR’s January 28, 2008 letter that the applicable “zero movement” deflection standard does not consider “possible movement due to gravitational effects.” Essentially all movement in the natural realm is “due to gravitational effects,” and, therefore, such an exception would render the standard meaningless.

The proposed monitoring plan calls for one subsurface monitoring station and six surface monitoring stations. That number of surface versus subsurface monitoring locations should be reversed, so that there are six subsurface monitoring locations over the ore body and one (or more) surface location. As bedrock subsides, the overlying soil units will not move in unison with the bedrock. The overlying soil is consolidated and may at first be capable of arching over the subsiding rock, or will create enough void space as it collapses, that considerable subsidence of the bedrock will occur without any measurable surface expression of this subsidence. The potential lag time between the start of bedrock subsidence and when the surface monitoring

locations show movement is unacceptable for the stated purpose of starting Subsidence Response- Assessment Monitoring. Surface monitoring is also prone to freeze-thaw movements. Besides strain gauges, which are an electronic method, some of the subsurface gauges should be mechanically attached to the bedrock and be measured on the surface (e.g., drill steel placed through a cased borehole, cemented into top of bedrock with vertical measurements taken on the surface).

We also recommend that the MDNR require that one or more of the existing crown pillar boreholes be converted to a monitoring borehole. The bedrock monitoring proposed by KEMC will not detect rock subsidence movement until it reaches the top of bedrock. There are simple and inexpensive methods of grouting a cable into an existing borehole through the crown pillar which will pinpoint rock movement starting deep within the bedrock over the mined area, which is where any gradual subsidence or unraveling of the crown pillar will likely begin.

The MDNR must keep in mind that the closest example of subsidence under similar geologic conditions is the Athens Mine in Marquette County, only 23 miles from the proposed Eagle Mine, where a classic and catastrophic subsidence failure occurred. It collapsed soon after the initial mining started. Approximately 1,800 feet of rock between two sub-vertical igneous intrusions collapsed into the mined cavity. The 1,800 feet of rock was essentially the crown pillar for the mine.

The arch of rock or crown pillar that is to be left over the mined out stopes will have its maximum strength when all fractures are tight and undisturbed and the rock's ability to arch is greatest. This is the pre-mining condition. Once subsurface monitoring detects movement of the bedrock, this indicates that fractures have started to dilate and the rock mass has already started to loose strength and unravel. Once this occurs, we do not believe that any corrective action including "enhanced mechanical reinforcement" will stop the crown pillar from further failure.

C. All Of KEMC's Planned Mining Should Be Taken Into Account Before Any Decision Is Made

The State (including MDNR) has already been informed that KEMC has six other potential ore deposits including the "Eagle East" deposit, and the Community has observed significant development activity currently taking place at Eagle East. Furthermore, the mining plan and ore deposit presented in Kennecott's Mining Permit Application (February 2006) is already obsolete due to the metals market prices allowing for economic mining of a significantly larger ore deposit at the main Eagle deposit. It is highly likely that KEMC will propose to use the same surface facilities for these nearby locations. It would make sense for the state to request a revised consolidated mine plan for the area since the impact of the decision that MDNR makes now may linger for years, perhaps decades, after the closure of the currently proposed mine.

D. A Detailed Rationale Must Be Provided To And Reviewed By The Public Before Any Decision Is Made

KEMC's January 21, 2008 letter to MDNR states that, based on "correspondence and subsequent discussions between the MDNR and KEMC, ... we understand (and with this letter

confirm) that the MDNR has determined that the other clarifications requested by [its] December 11 letter are no longer necessary... ." In turn, MDNR's January 28, 2008 letter states that the issues it raised in its December 7, 2007 letter "have been resolved" pursuant to January 11 and January 18, 2008 meetings with KEMC and information provided with KEMC's January 21, 2008 letter.

The January 21, 2008 written information appears to have been provided to the public (we have no way of telling whether anything was omitted). However, the substance of the meetings referenced by both MDNR and KEMC is unclear – it appears that MDNR has chosen to leave these discussions, clarifications and resolutions out of the public record. This is particularly relevant because it has been the public which initially raised many of the questions. Moreover, the State land proposed to be used for, and the natural resources that will be impacted by, the proposed mine are held in the public trust. On the surface, these closed door sessions create an atmosphere of public distrust in the process. The MDNR should provide a written summary of the meetings to the public, including details about what MDNR felt was sufficient to address its previously stated concerns, before any official decision is made.

In conclusion, we request that the Commission exercise its advisory authority to oppose the pending Lease and Reclamation Plan because: (a) approval of the Lease and Reclamation Plan will have substantial adverse impacts on the natural resources of the state and the religious, cultural, and historical interests of the Community at the site; (b) neither MDNR nor KEMC have adequately evaluated those impacts or provided a valid reason why alternatives should not be pursued to avoid those impacts; and (c) MDNR legally cannot, and should not as a matter of policy, approve the Lease and Reclamation Plan in light of those impacts.

Thank you for your consideration.

Sincerely,



Susan J. LaFermier,
Vice-President

cc: Governor Jennifer Granholm
Rebecca A. Humphries, Director, MDNR

KEWEENAW BAY INDIAN COMMUNITY

2008 TRIBAL COUNCIL

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ELIZABETH D. MAYO

February 7, 2008

Ross Micham
UIC Branch (WU-16J)
U.S. EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Re: Keweenaw Bay Indian Community Cultural Resources Assessment of the proposed Kennecott Eagle Mine, Marquette County, Michigan

Dear Mr. Micham,

Per your request for documentation related to the identified cultural resources located within and around the proposed Kennecott Eagle Mine, Marquette County, Michigan, please find enclosed "Assessment of Migi zii wa sin (Eagle Rock)".

As you know, the Michigan Department of Environmental Quality (MDEQ) recently issued three permits (a mining permit, an air use permit, and a permit to discharge wastewater to groundwater), and the Michigan Department of Natural Resources (MDNR) proposed to approve a land lease agreement and mine reclamation plan to allow Kennecott Eagle Minerals Company ("Kennecott") to construct and operate a nonferrous metallic mineral mine in northwest Marquette County, Michigan. The proposed mine is in the immediate vicinity of the ancestral home of the Community, a sovereign Native American community, and will significantly impact lands owned by and subject to treaty rights of the Community.

In addition, there is much concern over the fate of the Yellow Dog Plains and especially the place called Migi zii wa sin (Eagle Rock) by the people of the Keweenaw Bay Indian Community. Mining permit applicants are obligated to include analysis of mining impacts on places of worship and on cultural, historic and archaeological resources. Oral tradition and tribal elders know of the spirit of this area from the great migration and from Ojibwa traditional and religious culture.

If you have any questions regarding the enclosed report, don't hesitate to contact me.

Sincerely,



Summer Cohen, Officer
KBIC Tribal Historic Preservation Office
Phone: 906-353-6272
Email: scohen@kbic-nsn.gov

Enclosure: "Assessment of Migi zii wa sin (Eagle Rock)"

LAKE SUPERIOR BAND OF CHIPPEWA INDIANS

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS**Ketegitigaaning Ojibwe Nation Tribal Historic Preservation**

P.O. Box 249, E23857 Poplar Circle Watersmeet, MI 49969
 Phone: 906-358-0137 or 0138 Fax: 906-358-4850



April 30, 2008

RECEIVED

MAY 02 2008

UIC BRANCH
 EPA REGION 5

Mr. Ross Micham
 UIC Branch (WU-16)
 US EPA Region 5
 77 W. Jackson Blvd.
 Chicago, IL 60604

Dear Mr. Micham:

On 11/19/2007 Ketegitigaaning Ojibwe Nation THPO sent a letter to EPA requesting to be a consulting party in the Kennecott Mining Issue. On April 9, 2008 our THPO Officer giiwegiizhigookway Martin, and Summer Cohen KBIC THPO participated in an initial consultation conference call with your office.

I am writing this letter to formally submit those comments that were discussed on that conference call in order for you to formalize and include these into your objections regarding Kennecott Mining Project.

In 2003 LVD assumed the same responsibilities as the SHPO and became the 43rd THPO as so designated by the NPS. Since that time I have had not one formal consultation from the EPA on ANY projects. Letters of notification are not consultations: I would not be having this input today unless I wouldn't have specifically on my own contacted the EPA on this sensitive, important issue.

Concerns regarding Section 106 Consultation Process:

ACCOUNTABLE CONSULTATION PROCESS- The term 'accountable consultation process' means a process of government-to-government dialogue between the agency and Indian tribes to ensure meaningful and timely input by tribal officials. The process shall ensure, at a minimum, the following:

(A) That tribal officials have ample opportunity to provide input and recommendations to the agencies where projects could have tribal implications.

(B) That tribal input and recommendations need to be fully considered by the agency before policies that have tribal implications are formulated, amended, implemented, or rescinded.

(C) Tribal officials shall be provided with written notification of the projects that could potentially affect our people, their lands, their lives, and their religious culture and beliefs.

TRIBAL IMPLICATIONS- The term 'policies that have tribal implications' means any measure by the agency that has or is likely to have a direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, such as regulations, legislative comments or proposed legislation, and other policy statements or actions, guidance, clarification, standards, or sets of principles.

Tribal Historic Preservation Officer Background and Opposition Points

✦ Up until 1988 when LVD received federal Recognition as our own Nation, our people were associated with the Keweenaw Bay Indian Community and our people lived their and had lands ceded to them from the Federal Government according to the treaties when our lands were ceded. In those treaties we retained the sovereign inherent rights to hunt fish and gather.

✦ LVD retains the right to practice cultural activities such as hunting, fishing, and gathering, in this area. These rights are recognized through Treaties which written and agreed to by the Federal Government. It is a concern that the proposed mine would greatly affect the ability of the LVD Tribal Community to practice those treaty reserved

✦ The proposed project site is a sacred place and was visited or passed through by Anishinaabe since before Europeans came here. Logically, when Native people died, there was no state registered cemetery to be buried at; most commonly our ancestors were buried within the vicinity of the place where they passed away. The proposed project area was definitely disturbed on the surface, but not to the extent that is proposed by Kennecott. LVD is concerned that due to the level of archaeological survey work that was performed here that the possibility of disturbing burials is likely.

✦ According to Anishinaabe oral tradition and recorded by Federal Government officials, it is known that this area falls within what we know as the route of the great migration, which is summarized in the assessment document, submitted to the EPA by the KBIC THPO. This could very well be one of the last places known today that has not been disturbed or greatly altered of such high significance in Anishinaabe culture. The proposed mining activity would not only cut Tribal members off from visiting this sacred site, but in the future, there is no doubt that the area would retain any sense of what it once was and meant to the Anishinaabe.

✦ Eagle Rock itself was and still is a ceremonial site; it is considered a place to of great power to those who visit it. This is undoubtedly a spirit place. Each Tribal community has one. This is a place where our people go to make offerings and would have been a stopping place for that same purpose in the past. According to oral tradition passed down from our elders, activities did take place in that area.

* Mining is an offensive act to our people and to the Earth. The earth, according to tradition, is considered our Mother. Because of Government and Politics, we as Tribal people are forced to make decisions we do not want to make. We should not have to compromise the balance of nature. Unfortunately, we are forced to do that in this case. Ideally, we would like to see no mining especially the type of mining proposed here.

Tribal Comments: Environmental Section

On behalf of the Lac Vieux Desert Band of Lake Superior Chippewa (LVD) I write to once again express our concerns over the proposed mine for the Salmon Trout River area known as the Kennecott Eagle Project.

We do not believe the issuing of a permit for this project at this time will provide benefits exceeding or equaling the damages normally associated with mining particularly sulfide mining.

As expressed in an earlier comment, LVD does not have professional staff with in-dept knowledge of the intricate workings of a mine and relies on others with the expertise to review and provide comment on this type of mining and the potentials including those that can and usually do harm the environment both natural and human. LVD does however understand the broader relationships, the balances that exist in the natural environment. It is these relationships, balances that we rely on to continue our cultural and traditional practices, which provide sustenance for those in need, and growth for the many that struggle to maintain a reasonable livelihood. This understanding has been passed on from our ancestors as evidenced in the language of the Treaty of 1842 that preserves the rights of the Chippewa to hunt, fish, and gather resources from ceded lands. The Kennecott Eagle Project lies within the boundaries of the Treaty of 1842 and would occupy public lands therefore the Kennecott Eagle Project is a concern of LVD and other 1842 Treaty signatory Bands of Lake Superior Chippewa.

It seems the footprint of the operation will carve out 120 acres of forest, the proposed mine is nearly below a trout stream that flows to Lake Superior, a large mound system for treating wastewater (so to speak) is up gradient of the stream, and the entire operation is within the Lake Superior watershed and the ceded Territory of the 1842 Treaty. If subsidence never occurred (historic Ironwood mines), collapses never heard of (recent mine loss of lives in the US), environmental contamination was never an issue (on-going issue at Flambeau mine) and long-term economic growth was common (distressed mining towns throughout the western Upper Peninsula) then this letter would not have been written. However, the Kennecott Eagle Project with no guarantees that the mineshafts won't collapse, the wastewater won't affect fish, fowl, wildlife, and plants; the air quality both visible and not visible won't be a problem at any given moment and the next generation will not suffer is not, at this time, an activity deserving of support.

Given the history of mines globally and nearby, we do not believe our people, our neighbors, our environment will benefit from or be adequately protected from the effects of the proposed Kennecott Eagle Project.

Our ancestors walked these places, lived here, and died here. They also had a very spiritual way of life, because they were connected to the Land. They believed that the things in our sacred circle could not be separated. They were all intertwined. The birds, animals, rocks cosmic phenomena, etc. were all on the same level of importance, no one or anything were more or least important. We hope that you will take these comments seriously as they would have a negative impact upon the earth and our people.

Sincerely,



Giiwegiizhigookway Martin
Tribal Historic Preservation Officer
Ketegitigaaning Ojibwe Nation
Lac Vieux Desert Band of
Lake Superior Chippewa

Cc: James Williams, Jr. Tribal Chairman
File



Mt McKay, Thunder Bay, Ontario, Canada

An example of where the Thunderbirds live, “Naturally enough, given their existence as pinesiwak, the thunder Manitouk are believed to live in huge nests, usually built upon large inaccessible mountains: “the Ojebways believed that the home of the Thunder-bird was on the top of a high mountain in the West where it lays its eggs and hatches its young like an eagle” (P. Jones 1861, 86). One such place is Mt. McKay, a butte just to the west of Thunder Bay, Ontario. This forested mountain is crowned by a flat top supported by sheer rock cliffs, and while local Ojibwes regularly hold powwows under its shadow, few attempt to scale the cliffs to its summit. It is considered a sacred place and, especially when clouds obscure its top, people still consider the thunderbirds to be in residence there.¹

¹ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith

The reference above and throughout this research gives significance to the importance of Eagle Rocks representation to Ojibwe People not just as a physical entity but also as a place of Traditional Cultural Property that is alive and should be respected as such. Again I stress the importance of the definition of Traditional Cultural Property

My concern with the Kennecott Eagle Mine Project is that Eagle Rock is a significant Traditional Cultural Property identified by oral tradition and historic cultural values of the Anishinaabe Ojibwe culture of the United States, particularly the Ojibwe of the Lake Superior, including Michigan, Wisconsin and Minnesota.

The environmental impact of the Kennecott's Eagle Rock Project would destroy a belief system that is usually not recognized by Euro Americans, but according to the NHPA's definition of traditional cultural significance: "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through generations, usually orally or through practice. The traditional cultural significance of a historic property then significance is derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. Therefore a Traditional Cultural Property is defined as:

- A location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;
- ...or patterns of land use reflect the cultural traditions valued by its long term residents;
- A location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practices and,

- A location where a community has traditionally carried out economic, artistic or other cultural practices important in maintaining its historic identity.
- A traditional cultural property, then can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history and (b) are important in maintaining the continuing cultural identity the community.

The Project will destroy a way of life values and traditions of the Ojibwe people of Minnesota, Michigan and Wisconsin. The effects of a sulfide mine will have a negative impact on the natural resources and traditional cultural properties of the Ojibwe people. The Eagle Rock Project will have adverse effects such as physical destruction, alteration, removal, and changes to the character of the property's use and to the physical features that contribute to its historical significance. The Federal agencies should remember that properties of religious and cultural significance are located on ancestral, aboriginal, or ceded lands of Indian tribes and Native Hawaiian organizations and should consider this when complying with the procedures. Evidence of myths and oral histories provide the influences for this argument.

In order to provide some definition of why it is that Eagle Rock and it's

Surrounding waters are important in the Anishinaabe/Ojibwe/Chippewa culture, one must first have the understanding of the Seven Prophecy belief. The following interpretation of the Seventh Prophecy of the Seven Fires, is told by Eddie Benton-Benai:

The People of the Seventh Fire

More than 1,000 years ago the Anishinabeg, lived along the shores of the Atlantic Ocean. There were so many and they were so powerful that it is said that one could stand at the top of the highest mountain, look in all directions, and not see to the ends of the nation. They traveled the waterways by canoe and in winter they traveled with dog sled. Their life was full of abundance and beauty. The Anishinabeg developed their natural heritage of wisdom and power through dreams and the [way of the circle](#). They followed the path of the spirit, walking in balance, in harmony with all beings. They communicated with the animals and fish that provided them with food. Trees and plants told them of their [medicines](#). They knew the magic and [mystery of the spirals](#). Using this knowledge, some of them traveled great distances with ease. Even today, some of the Hopi people of the Southwest desert in the USA still remember the stories of my people appearing in their underground chambers. They would speak with the Hopi people, do ceremony with them, and then disappear through the walls of the kiva.

These people had no need for police, laws, courts, judges, or prisons. It is the way of the circle to help each other and for each to contribute their talents and skills for the well-being of the community. The best hunters and fishers would share the hunt. The women

gathered food together and shared it with everyone. They lived by the Original Instructions to love, honor, and respect all beings in the circle of life. This was given to all people at the beginning of the Creation. It's written in the hearts.²

Seven prophets appeared to the people. The First Prophet told the people that in the time of the First Fire they would leave their homes by the sea and follow the sign of the *megis*. They were to journey west into strange lands in search of a island in the shape of a turtle. This island will be linked to the purification of the earth. Such an island was to be found at the beginning and at the end of their journey. Along the way they would find a river connecting two large sweet water seas. This river would be narrow and deep as though a knife had cut through the land. They would stop seven times to create villages but they would know that their journey was complete when they found food growing on the water. If they did not leave, there would be much suffering and they would be destroyed. And they would be pursued and attacked by other nations along the way so they must be strong and ready to defend themselves.

The Second Prophet told them they could recognize the Second Fire because while they were camped by a sweet water sea they would lose their direction and that the dreams of a little boy would point the way back to the true path, the stepping stones to their future.

² The Seventh Fire: An Ancient Prophecy from the Ojibwe Tradition by Allen Asian Heart/White Eagle Soaring <http://www.the7thfire.com/7thfire.htm>

The Third Prophet said that in the Third Fire the Anishinabe would find the path to the lands prepared for them and they would continue their journey west to the place where food grows upon the water.

The Fourth Prophet was two who came as one. The first told them to expect a race of people who had light skin. The future of the Anishinabeg would be known by the face the light-skinned people would wear. If they come in brotherhood there would be a time of wonderful change. New knowledge would be joined with the old knowledge and the two peoples would join to make a mighty nation. Two other nations would join to make four and they would become the mightiest nation of all. If they brought only their knowledge and their good-will they would be like brothers.

The second being of the Fourth Prophet warned the light-skinned race might wear the face of death that would almost look the same as the face of brotherhood. "If they come carrying a weapon and if they seem to be suffering, beware. Behind this face is greed. You shall recognize the face of death if the rivers are poisoned and the fish are unfit to eat."

The Fifth Prophet said that in the time of the Fifth Fire there will be a struggle between the way of the mind of the light-skinned people and the natural path of spirit of the many nations of natural people. "As this fire loses its heat there will come among the people those who promise great joy and salvation. If the people accept this promise and abandon the old ways, the struggle will continue for many generations. This promise is false and it will nearly destroy those who accept it."

The Sixth Prophet told them that in the time of Sixth Fire it would be clear that the promise accepted during the Fifth Fire was false. "Those who were deceived by this promise will take their children away from the teachings of the elders. The elders will lose their purpose in life and many will become sick and die. Many people will be out of balance and the cup of life will become the cup of grief."

The Seventh Prophet was younger than the others who had come and there was a glowing light from his eyes. He said that there would come a time when the waters had been so poisoned that the animals and plants that lived there would fall sick and begin to die. Much of the forests and prairies would be gone so the air would begin to lose the power of life.* The way of the mind brought to the red, black, and yellow nation by the white nation would bring danger to the whole earth. In this time there will arise *Osh-ki-bi-ma-di-zeeg*, a new people who will emerge from the clouds of illusion. They will retrace their steps to find the treasures that had been left by the trail. The stories that had been lost will be returned to them. They will remember the Original Instructions and find strength in the way of the circle. Their search will take them to the elders and the new people will ask for guidance. But many of the elders will have walked the Path of the Souls to the Star Web. Many elders will have forgotten their wisdom and they will not be able to help. Some of the elders will point in the wrong direction and others will remain silent because of their fear. Some of the elders will be silent because no one has asked them for their wisdom.

If the New People will find trust in the way of all things, in the circle, they will no longer need the selfish voice of the ego and they can begin to trust their inner voice. Wisdom

will be once again be found in dreams of the night and of the day. The sacred fire will once again be lit. The Light-skinned People will be given a choice between two paths. If they choose the right path the Seventh Fire will light the Eighth Fire and final fire of brotherhood and sisterhood. If they choose the wrong path, remaining on the path of the mind, then the destruction they brought with them will come back to destroy them. The people of the earth will experience much suffering and death.

Along the Great Salt Water in the East, life was full and rich for the People, the Anishinabeg. After the Seven Prophets came to them, there were many large gatherings to discuss their predictions. Many people did not want to move away from their homes with their families and begin a long migration through strange lands. Some unselfishly supported those who believed in the power of the prophecies and were ready to follow because they thought it was in some way part of the Creator's Plan. One group supported the plans to follow the Megis into the unknown lands of the setting sun, but they pledged to stay and care for the eastern fire of the people. They were called the *Wa-bun-u-keeg'*, the People of the Dawn. Five hundred years later they would be among the first to be caught in the death and suffering the Light-skinned people would bring. By the time of the Fourth Fire, their homes, families, and villages would be tom apart. They would be scattered, lose their roots, their power. Today these people are called the "Abenaki." The U.S. government does not recognize their existence as a tribe. These are also my people. My great-great grandmother was born in Vermont in about 1841, married a white man and they moved to Wisconsin and then to Minnesota. They did not realize that they followed her relatives who had made the journey hundreds of years before. Many Ojibwe people live in Wisconsin and Minnesota today.

The people followed the Great River to the Setting Sun, the St. Lawrence River, looking for the island shaped like a turtle. Near present-day Montreal they found such an island and the Megis shell rose up out of the water to greet them. There they brought the Sacred Fire and did many ceremonies to cleanse themselves to be ready to receive their next instructions. After some time they continued to follow the Great River into a sweet water sea until they came to a roaring waterfall that spoke like thunder. They called it *Ani-mi-kee'wabu*, place of the thundering water. Once again the Sacred Megis shell rose up out of the water and greeted them, and the Sacred Fire was brought here. Today the Light-skinned people call this place Niagara Falls.



The *megis* is a cowrie shell, very sacred to the Ojibwe. Through the *megis* Creator breathed life into all beings

Again the people moved on along another large sweet water sea until they came to a narrow river that was cut deep into the earth. It was the river the First Prophet had described. Many people were drowned trying to cross this river. When the people set up a village there, the Sacred Megis rose up out of the water to greet them. That river is today called the Detroit River.

At this time there came to be three groups among the Anishinabeg. Each group had a special task. One group, called the *0-dah-wahg'*, were responsible for providing the people with their food and supplies. They were the hunters and traders. A second group, called the *0-day'wah-to-mee*, were the keepers of the Sacred Fire as the people moved along. The third group was the faith keepers of the nation, called the *Ojib-way*.

Today, the *0-dah-wahg'* are called the Ottawa, the *0-day'wah-to-mee* are called the Potawatomi, and the *0-jib-way* are called the Ojibwe or incorrectly, Chippewa. These were the nations of the Three Fires, powerful and united by a common purpose-- following the Sacred Megis to an unknown destination. The nations of the Three Fires were asked to join war expeditions against the Light-skinned invaders in the East, but they remained focused on their mission and their destiny, whatever that was to be. They followed the *sissagwad*, the soft whisper of spirit, not knowing where it would lead them. At the time of the Second Fire the people were encamped along the east shore of the third sweet water sea. There they searched for a way to cross the sea to continue their journey in search of the food that grows on water. Here they stayed for a long time establishing villages and planting gardens. In attending to basic survival needs, people began to neglect the sacred ways and soon forgot about their journey. Only a few of the elders still remembered the purpose of their migration. Then a little boy had a dream about a path of stones that would lead across the waters. They returned to the River that Cuts Like a Knife and retraced their steps. There they found a chain of islands that lead across the sweet water sea.

Moving the people by canoe they continued their western journey in search of the food that grows on water. On the largest island in the chain the Sacred Megis appeared to the people, rising out of the water.

This island became the center of the Anishinabeg nation, the Sacred Fire was brought here, the sacred water drum of the Midewiwin Society was heard again. Then the water drum was moved to the eastern shore of another sweet water sea and the Sacred Megis appeared again. Here the people had their first contact with the Light-skinned people, French explorers, voyageurs, and traders, called the *Ah-dah-way' wih-nih-neeeg*. These people brought many gifts, metal knives, axes, kettles, and pots, woven cloth and coats, colored glass beads. These people came in brotherhood, and seemed to be friendly and respectful of the ways of the people. These people were treated as brothers, many of them married women of the Anishinabeg, and they were adopted into the nation. It was the beginning of the Fourth Fire. In the East, other Light-skinned people would come wearing the face of death. These people destroyed many villages of the People of the Dawn who had remained along the Great Salt Water. They destroyed the garden paradise the Anishinabeg had tended for thousands of years. These people seemed not to know how to be in balance and yet they believed that their way was the best and only way to live.

Groups of the Anishinabeg traveled along the north and south shores of the fourth sweet water sea and reaching a bay at the western end they found *mah-no-men*, wild rice, "the food that grows on water." The destination had been reached. Spirit Island in the bay was

the sixth stopping place. Not very far away along the southern shore of the great sweet water sea they found an island shaped like a turtle, the final sign that their journey was complete. They placed tobacco on the shore as an offering to the Great Spirit who had led them to this holy place. They called the island *Moh-ning'wun-ih-kawn-ing*. This became the capital of a powerful Anishinabeg nation and the Great Sweet Water Sea was called *Gii-dzhii Ojibwe-gah-meeng*, the Great Sea of the Ojibwe (called *Gitchi gumi* in Longfellow's poem, *Hiawatha*). The Sacred Megis rose up out of the waters and told them that they had reached their destination and that now they must continue to follow the path of the spirit so they could light the path in the time of the Seventh Fire. Here they brought the Sacred Fire and the sacred water drum sounded for many years. The prophecies of the First, Second, and Third Prophets had been realized, and the prophecy of the Fourth Prophet continued to unfold.

Light-skinned men in long black robes, *Muk-a-day-ih-kahn-ah-yayg*, came clutching a black book to their chest and carrying something that seemed to honor the four directions. These men were impressed with the generosity, honor, and respect shown by the Anishinabeg. Still, they wanted the Anishinabeg to change their ways and accept the teachings of a man from far away,. They warned that not following this book they would not be able to walk the Path of Souls to the Star Web to join their relatives. This was very frightening to many of the people and they left their traditional ways to follow the Black Coats and their black book. A wedge was driven between the people of the Midewiwin Society and the people following the new teaching. The conflict between the people of the black book and the people of the Sacred Megis split the community into factions that

broke the circle of the nation. People scattered to the smaller lakes of Wisconsin and Minnesota.

Thus began the time of the Fifth Fire. The wave of light-skinned people forced all native people into poverty on tiny reservations supported by erratic deliveries of promised supplies and equipment. These were usually rotten, poor quality, or insufficient to care for the needs of the people. To educate the children in the new ways the light-skinned people took children away from their parents, put them in boarding schools far away from their homes and families, cut their hair, took away their medicine bundles, forbade the use of their native language. So the hoop of the nation was broken, taking the young people away from the medicines, the stories, the teachings, the spirit ways, the strength that had brought a spirit-filled people on a journey for more than six hundred years. The children were taught to walk the way of the light-skinned people who thought that theirs was the superior way, the way of "progress."³

The prophet of the Sixth Fire said, "In the time of the Sixth Fire it will be evident that the promise of the First Fire came in a false way. Those deceived by this promise will take their children away from the teachings of the Elders. Grandsons and granddaughters will turn against the Elders. In this way the Elders will lose their reason for living ... they will lose their purpose in life. At this time a new sickness will come among the people. The balance of many people will be disturbed. The cup of life will almost become the cup of

³ The Seventh Fire: An Ancient Prophecy from the Ojibwe Tradition by Allen Asian Heart/White Eagle Soaring <http://www.the7thfire.com/7thfire.htm>

grief."

At the time of these predictions, many people scoffed at the prophets. They then had medicines to keep away sickness. They were then healthy and happy as a people. These were the people who chose to stay behind in the great migration of the Anishinaabe. These people were the first to have contact with the light skinned race. They would suffer most.

When the Fifth Fire came to pass, a great struggle did indeed grip the lives of all native people. The light skinned race launched a military attack on the Indian people throughout the country aimed at taking away their land and their independence as a free and sovereign people. It is now felt that the false promise that came at the end of the Fifth Fire was the materials and riches embodied in the way of life of the light skinned race. Those who abandoned the ancient ways and accepted this new promise were a big factor in causing the near destruction of the native people of this land.

When the Sixth Fire came to be, the words of the prophet rang true as children were taken away from the teachings of the Elders. The boarding school era of "civilizing" Indian children had begun. The Indian language and religion were taken from the children. The people started dying at a early age ... they had lost their will to live and their purpose in living.

In the confusing times of the Sixth Fire, it is said that a group of visionaries came among

the Anishinaabe. They gathered all the priests of the Midewiwin Lodge. They told the priests of the Midewiwin Way was in danger of being destroyed. They gathered all the sacred bundles. They gathered all the scrolls that recorded the ceremonies. All these things were placed in a hollowed out log from the Ironwood tree. Men were lowered over a cliff by long ropes. They dug a hole in the cliff and buried the log where no one could find it. Thus the teachings of the Elders were hidden out of sight but not out of memory. It is said that when the time came that the Indian people could practice their religion without fear a line boy would dream where the Ironwood log, full of sacred bundles and scrolls, was buried. He would lead his people to the place.

The seventh prophet that came to the people long ago said to be different from the other prophets. He was young and had a strange light in his eyes. He said,

"In the time of the Seventh Fire New People will emerge. They will retrace their steps to find what was left by the trail. Their steps will take them to the Elders who they will ask to guide them on their journey. But many of the Elders will have fallen asleep. They will awaken to this new time with nothing to offer. Some of the Elders will be silent because no one will ask anything of them. The New People will have to be careful in how they approach the Elders. The task of the New People will not be easy.

"If the New People will remain strong in their quest the Water Drum of the Midewiwin Lodge will again sound its voice. There will be a rebirth of the

Anishinaabe Nation and a rekindling of old flames. The Sacred Fire will again be lit.

"It is this time that the light skinned race will be given a choice between two roads. If they choose the right road, then the Seventh Fire will light the Eighth and final Fire, an eternal fire of peace, love brotherhood and sisterhood. If the light skinned race makes the wrong choice of the roads, then the destruction which they brought with them in coming to this country will come back at them and cause much suffering and death to all the Earth's people."

Traditional Mide people of Ojibway and people from other nations have interpreted the "two roads" that face the light skinned race as the road to technology and the other road to spiritualism. They feel that the road to technology represents a continuation of headlong rush to technological development. This is the road that has led to modern society, to a damaged a seared Earth. Could it be that the road to technology represents a rush to destruction? The road to spirituality represents the slower path that traditional native people have traveled and are now seeking again. This Earth is not scorched on this trail. The grass is still growing there.

The prophet of the Fourth Fire spoke of a time when "two nations will join to make a mighty nation." He was speaking of the coming of the light skinned race and the face of brotherhood that the light skinned Brother could be wearing. It is obvious from the history of this country that this was not the face worn by the light skinned race as a whole. That might nation spoken of in the Fourth Fire has never been formed.

If the Natural people of the Earth could just wear the face of brotherhood, we might be able to deliver our society from the road to destruction. Could we make the two roads that today represent two clashing world views come together to form a mighty nation? Could a Nation be formed that is guided by respect for all living things? Are we the people of the Seventh Fire?⁴

Another important view of Ojibwe life philosophy is from Norval Morrisseau :

Norval Morrisseau, Copper Thunderbird, born March 14, 1932 on Sand Point Ojibwe Reserve, near Beardmore, Ontario. Founder of Woodland school (style) also known as Legend or Medicine painting. Received Order of Canada, 1978. Elected to Royal Canadian Academy of Arts. Only Canadian painter asked to exhibit in Paris French Revolution bicentennial, 1989.⁵



NORVAL MORRISSEAU (1931-2007) ⁶

"We Are All One in Spirit"

"I transmit astral plane harmonies through my brushes into the physical plane. These otherworld colours are reflected in the alphabet of nature, a grammar in which the symbols are plants, animals, birds, fishes, earth and sky. I am merely a channel for the spirit to utilize, and it is needed by a spirit starved society."

⁴ * *The source for this story is The Mishomis book: the voice of the Ojibway by Edward Benton-Banai. Printed in St. Paul, Minn. Published by Indian Country Press, copyright 1979.*

⁵ http://www.kstrom.net/isk/art/morriss/art_morr.html

⁶ http://www.kstrom.net/isk/art/morriss/art_morr.html

"My art speaks and will continue to speak, transcending barriers of nationality, language and other forces that may be divisive, fortifying the greatness of the spirit that has always been the foundation of the Ojibwa people."

"I would like to say that I am an artist so that I can beautify the world and battle conditioned consciousness with the same tools used to condition it."

"My culture is my world."

"My paintings are icons, that is to say, they are images which help focus on spiritual powers, generated by traditional belief and wisdom."

"It is our Ojibwa tradition to recall our history or obtain our history in an oral manner. It is important for our children and others to benefit through the process of continuing to recall and make history"

"The Grand Shaman is like the Pope of Rome. The Pope is on one side of coin, the Shaman on the other side of the coin."

"Today we wonder and are distracted by the white man's ways that we cannot cope with. Those of us who are lucky have made it. But a lot of us are still behind, by trying to live like our white brothers and their religion, ignoring our great ancestors' culture. If one has an intelligent mind we could live side by side with our ancient ways and same time get us where we should be."

"Armed with an arsenal of heavenly designs and sculptures, the priests were prepared and fearless. With their unlimited resources and soldiers they were sent to conquer the New World and bring their culture and religion to every corner."

"People had to be stripped of their culture before they could be taught to be civilized. The Natives of the Americas were not the dogs people were misled to believe, but rather a sophisticated network of different cultures, religions and so on."

"When the Jesuits came, the Indian was already around. The Indian did not understand them. He tried to understand them, what they were up to. He knew that they were going to be there for awhile. He knew how sad it was, seeing his people, how low they were put, how they had previously enjoyed living and needed to live freely again. How do we go about doing that now? We need images. We're going to use images ourselves."

"I've always wanted to be a role model. I've always wanted to stay an Indian. I wanted the little kids to know that."

"I may not have a Ferrari, but I'm the first Indian to break into the Canadian art scene and I have forever enriched the Canadian way of life. I want to make paintings full of colour, laughter, compassion and love. I want to make paintings that will make people

happy, that will change the course of people's lives. If I can do that, I can paint for 100 years."

"These paintings only remind you that you're an Indian. Inside somewhere, we're all Indians. So now when I befriend you, I'm trying to get the best Indian, bring out the Indianness in you to make you think everything is sacred."

"Among the Indians, as among other nations, some people are born artists, but most are not. I am a born artist. I have as much interest in my people as any anthropologist, and I have studied our culture and lore. My aim is to reassemble the pieces of a once proud culture, and to show the dignity and bravery of my people."

"Many times people tell me that I've cured them of something, whatever's ailing them. But I didn't do anything. It was the colour of the painting that did it. But now it's even much stronger. The healing is much stronger than it ever was. What I finally find is this: We could live with turmoil and the anguish in everything and still we could feel contented and happy and compassionate. What we got rid of is the stress with colour."

"As for the colours, one was for the heart, one was for the bum, one was for the arms, one was for all the different kinds of sicknesses."

"A long time ago, maybe two or three hundred years ago, before white men were around, some people were worried about what was going to happen.... so they went to talk to a shaman. They asked him if he could find out. The shaman went to a sacred place and started singing and drumming. He beat on his drum harder and harder until he jumped right out of his body and began to rise up in his consciousness. He went up to the third astral plane where he could fly through time. He flew through time until he reached the year 2000 and then came down to look around. Below him he could see hundreds, thousands... more than he could count... millions of ants travelling down well traveled trails... and mountains sticking out of the plains like giant ice crystals, reflecting the sun back into his face. When he returned to his own time he told the people about what he had seen. He told them that what ever these creatures were, there was lots of them and they were coming."

"We natives believe in the following saying: "Our God is Native. The Great Deity of the Five Planes is so. We are neither for nor against, We speak not of Christ nor of God. We say, 'Let them be. We follow the Spirit on its Inward Journey of Soul through attitudes and attentions. Remember we are all in a big School and the Inner Master teaches us Experience over many Lifetimes."

"Years ago I was walking down the street in Winnipeg feeling sorry for myself. A man was walking towards me, He had long hair and a leather jacket, and as we meet he said, "Things are not as bad as we think". I looked away for a second and when I looked back he was gone. I never saw that man again."

"Just as a fish swims in any clear northern lake (in a medium that is virtually invisible to

the eye) so we, if we are to live all right, should realize we live in a dimension on which our very existence, as people and artists, depends. The dimension is that of connectivity in life shared together in mutual respect... Fish, in spawning runs, seem to urge each other on, to reach safe and secluded lakes, with plentiful food supplies. Once there, they can live more non-competitively."

"Why am I alive? To heal you guys who are more screwed up than I am. How can I heal you? With colour. These are the colours you dreamt about one night."

"I can live anywhere. I can paint anywhere. I have painted six panels of the Man Who Changed Into a Thunderbird. All these paintings came from within. I don't need to isolate myself to do them. I can paint them here, there or anywhere. A pipe band could be going by, or cars."

"I paint with these colours to heal, my paintings honour the Anishnaabe ancestors who have roamed the Great Lakes for centuries upon centuries."

"My people believe the earth to be their mother and that we are children of the earth. In spirit we are one with our environment." ⁷

In the Anishinaabe beliefs the water drum of the Midewiwin society

alerted the people that a ceremony was taking place:

“Another kind of medicine drum is mI-tlg-wa-kI'k, a water drum, a tall water drum. Most of them are about eighteen inches high, but some of the water drums we make medicine with are two feet high. The taller you make the drum the more different the sound is. We call it a "water drum" because there's water in it, and when they pound it they use that water to wet the hide. "Duu-aa-uu, duu--aa, du-aa-uuu" -- that's the way it sounds. With a water drum the sound will travel far enough so you could hear it a long, long way off.”⁸

Thomas Vennum speaks of the Water Drum: “the second type of drum known to the Ojibwa was the water drum still used exclusively by members of the medicine lodge. Called mitigwakik, meaning “wooden vessel,” it averaged sixteen to twenty inches in

⁷ http://norvalmorriseau.blogspot.com/2007/12/in-memoriam-norval-orrisseau_11.html

⁸ When Everybody Called Me Gah-bay-bi-nayss: "Forever-Flying-Bird"
An Ethnographic Biography of Paul Peter Buffalo

height and was made from a section of basswood or cedar, hollowed by charring and scrapping. A separate piece – usually pine—was inserted and sealed with pitch to form the bottom of the drum. For a drum head a single rectangular piece of tanned deerskin was held in place with a removable hoop wound with cloth. The drum was partly filled with water through a bunghole in its side and played with a curved drumstick. Like all water drums, its high pitched tone would carry great distances and characteristics sound informed one instantly that a medicine ceremony was in session. P. 40.⁹

Please see this website it tells of the Water Drum and its importance to the

Ojibwe People as spoken of today:

[The Water Drum](#) (5:59)

The water drum is known as the drum of drums. It was the first one given, and uses and represents elements of the natural world—plant and animal life, and water.¹⁰

[The Drum](#) (6:29)

"Drums represent the heartbeat of the people," says traditionalist Eddie Benton-Benai.

Young people are once again singing the old songs—and writing new ones.¹¹

The Midē' drum ([Fig. 12 a](#)) differs from the drum commonly used in dances ([Fig. 12 b](#)) in the fact that it is cylindrical, consisting of an elongated kettle or wooden vessel, or perhaps a section of the hollow trunk of a tree about 10 inches in diameter and from 18 to 20 inches in length, over both ends of which rawhide is stretched while wet, so that upon drying the membrane becomes hard and tense, producing, when beaten, a very hard, loud tone, which may be heard at a great distance.

⁹ [The Ojibwa Dance Drum- Its History and Construction](#) by Thomas Vennum Jr. Smithsonian Folklife Studies Number 2, 1982.

¹⁰ www.wisconsinstories.org/archives/ojibwemusic/index.cfm?action=ojibwemusic - 24k

¹¹ www.wisconsinstories.org/archives/ojibwemusic/index.cfm?action=ojibwemusic - 24k

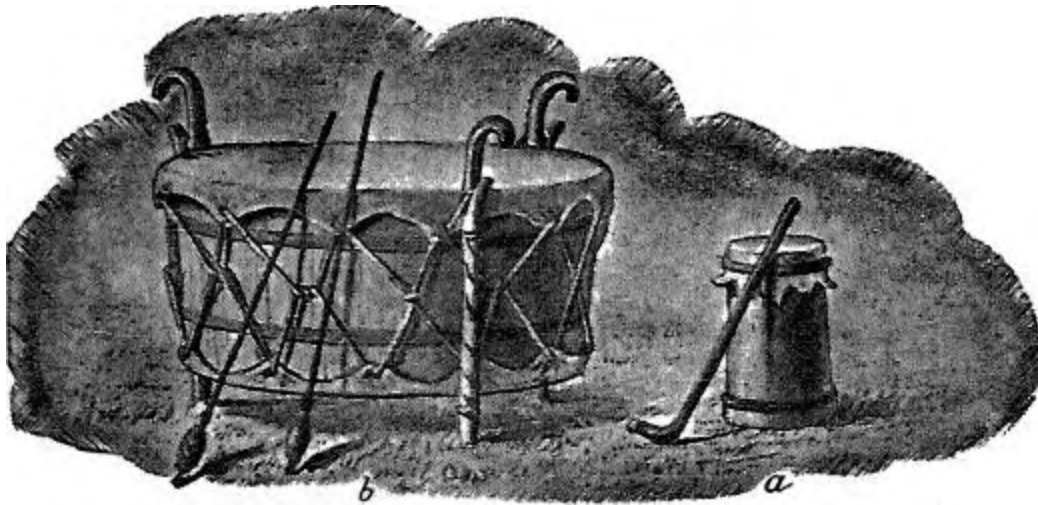


FIG. 12.—Ojibwa drums.

Frequently, however, water is put into the bottom of the drum and the drum-head stretched across the top in a wet state, which appears to intensify the sound very considerably.¹²

Another area of interest and identification is the mythos of the Anishinaabe people that there are many animate creatures that exist in Ojibwe Country and other tribes in North America. Theresa S. Smith in her book: Thunderers and Water Monsters in the Traditional Life World, the Island of the Anishinaabeg writes about myth, religion and the survival of Ojibwe Tradition. To help understand how Ojibwe myths are incorporate into Ojibwe life and thoughts of myths these animate beings are real to Ojibwe people.

The myth is a true story. The myth is a story about reality. – Charles Long, Alpha, 1963¹³

¹² The Mide'wiwin or "Grand Medicine Society" of the Ojibwa Seventh Annual Report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution, 1885-1886, Government Printing Office, Washington, 1891, pages 143-300
Author: Walter James Hoffman

That which we refer to in current usage as religion cannot be conceived as Being separable from any of the multiple aspects of any American Indian culture. In no American Indian language is there a single word or term that could translate as religion.

– *Joseph Epes Brown, The Spiritual Legacy of the American Indian, 1985*¹⁴

*Despite the fluidity of the Ojibwe life- world, a world characterized by a hierarchy of power and a landscape inhabited by metamorphosing people – human and otherwise- these sources exhibit both consonance and interdependence. In other words, they present a web of associations and patterns that is distinctively and consistently Anishinaabe. And the knots which hold this web together, which begin and end the pattern, are the traditional narratives, the mythos of the Ojibwe people.(p. 17).*¹⁵

Things are going wrong when people think of the land as a pie that can be sliced up in pieces... No matter how you cut the pie, in the end there's nothing holding it together. It gets eaten up like pop and chips, like raisins. It's better for people to live as if they're inside a ball. The sky, upstairs and downstairs, the four directions: these will hold everything together and not let anything escape because a ball has a top to cover and bottom to hold us, and everything works together. – Ron Geyschick, Te Bwe Win (Truth),

¹³ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

¹⁴ *ibid*

¹⁵ *ibid*

1989¹⁶

Thunders and other water creatures are of great importance to the Anishinaabe. How they are interrelated in the Ojibwe belief system; one cannot live without the other.

Thunderers:

“We saw Thunderbirds a few summers ago. Ho! A huge bird it was – a lot bigger than the planes that you see go by today. Many of the people at Shoal Lake saw it go by. It didn’t flap its wings, not even once. It was white on the underside and black on top. Ho! A big, big bird. There were some great big thunderclouds making up a storm and out of the clouds came this great bird.” – James Redsky (*Esquekesik*), Great Leader of the

Ojibway: Mis-quona-queb, 1972¹⁷

From late spring until the first snows of winter thunderstorms regularly roam the Northern Great Lakes. They travel roughly west to east, usually in large groups at the head of a passing cold front. Less frequently they pop up singly during the course of a hot spell, expend some of their energy, and move across the water. Their season here is circumscribed by a winter that normally loosens its grip in May only to return by October. Like the flora of this area, the storms bloom for an exceptionally short growing season. And

¹⁶ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

¹⁷ *ibid*

like the animals and humans of the Ojibwe life-world, they travel the earth as organic entities in their own distinct forms. While thunderstorms are no more frequent or violent in the Great Lakes than in many other parts of North America, the Anishinaabe maintain the belief that storms visit them more often than they do anyone else. (p.65)¹⁸

Accordingly in Ojibwe beliefs: thunderstorms don't just happen in this life world; they signal the arrival of powerful people, Thunderers or Thunderbirds, who have a relationship with human beings, the Thunderers, possessing wills like all people, intentionally follow a path which allows them to over fly and so oversee the island of the Anishinaabeg. As Sam Oswamick told me, "That's why the Indians believe there are Thunder spirits. They help people, you know, looking all over, seeing everything's going on all right. That's why they travel around." As they look below them, the Thunderers sound their voices, not merely for show but in order to communicate with human beings. And while Thunder may well speak elsewhere, it doesn't speak Ojibwe. (p.66).¹⁹

An example of where the Thunderbirds live, "Naturally enough, given their existence as pinesiwak, the thunder Manitouk are believed to live in

¹⁸ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

¹⁹ *ibid*

huge nests, usually built upon large inaccessible mountains: “the Ojebways believed that the home of the Thunder-bird was on the top of a high mountain in the West where it lays its eggs and hatches its young like an eagle” (P. Jones 1861, 86). One such place is Mt. McKay, a butte just to the west of Thunder Bay, Ontario. This forested mountain is crowned by a flat top supported by sheer rock cliffs, and while local Ojibwes regularly hold powwows under its shadow, few attempt to scale the cliffs to its summit. It is considered a sacred place and, especially when clouds obscure its top, people still consider the thunderbirds to be in residence there. Jones also makes special mention of the La Cloche Mountains just to the north of Manitoulin, which are currently referred to as the pathway of the animikeek. This is because thunder seems to sound loudest when it crosses these quartzite mountains. “It is on these mountains the poor superstitious [sic] Indians say the thunder-gods, or eagles have their abode, and hatch their young” (43).²⁰ Such mountains appear to be appropriate places for Thunderbirds to live, and the observation of eagle nests in these places reinforces the idea. (p.81)²¹

“While mature Thunderers, those who are properly understood as *atisokanak*, protect the Anishinaabeg from underground and Underwater *manitouk* with their lightening strikes,

²⁰ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

²¹ *ibid*

the immature members of this group are often both foolish and dangerous. They have not perfected either their flight or their strikes and sometimes their behavior is rather pitiable.

On the reservations at Fond du Lac and White Earth, we were told a story of the young thunderbird who struck the side of a hill and broke his wing. He was then caught between the precipices. When he tried to free himself, he kept on striking against the rocks, and he repeatedly broke

is wing as he did so. This explains the continuous flash of heat lightening (Coleman, Frogner, and Eich 1962, 102).²² More often, and unfortunately so for humans, the young Thunderers wreak havoc with their wild shots and generally unruly behavior.

In the moon of berries, when the young thunderbirds go by, they cause destruction because they don't know any better. They are like children and this is the fault of the young birds, not the parents. When they go by in August and September, they are pretty rough on the Ojibways. They knock down trees with lightening from their beaks. Houses are struck and smashed also. The older Thunderbirds try to correct these foolish young birds, but they do not learn because they are so young (Redsky 1972, 110-11).²³

Another important creature that needs to be mentioned is the under water monster known as Mishebeshu: On the eastern side of Manitoulin Island, across the bay from the peninsula of Wikwemikong, lies a small village called Manitowaning. The oldest white

²² The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

²³ *ibid*

settlement on the island (1838), Manitowaning takes its name from the Ojibwe *Munidowaning* (*den of the manitou*) or *Mnidoowaanzhig* (*at the spirit's lair*). This picturesque town would appear to sit upon a particularly blessed spot where the shoreline curves gently around a sheltered bay teeming with bass, pike, splake and even the occasional sturgeon. Tourist publications will tell you that just as Manituolin (from *Mnidoonisig*) means Island of the Manitou and refers to the traditional home of Kitche Manitou, Manitowaning describes the Great Spirit's favorite haunt. **These sources are WRONG.** Manitowaning does not belong to Kitche Manitou but to another, entirely different and entirely frightening person: **Mishebeshu, the great underwater monster.** (96).²⁴

The name Mishebeshu means literally Great Lynx and may be used as "both a generic word for a class of malignant aquatic feline beings, and the proper name for the ruler of the species" (Brown and Brightman 1988, 109). My consultants extend the name even further to include not only these great water dwelling lynxes but water serpents and monster ground snakes. In this instance, as in all my analyses of the Ojibwe life-world, use of the term Mishebeshu must be governed, finally, by prevailing Anishinaabe usage. To the Anishinaabeg, Mishebeshu is at once a manitou and a class of manitouk, the *ogimaa* of all underwater and underground creatures, and any of these creatures that might be termed extraordinary. He is not a person with a plurality of forms like Nanabush

²⁴ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

but a kind of “plural person” who is met within a complex of symbols and realities.
(p.97)²⁵

The particularly feline character of Mishebeshu, as expressed in his name, does require some elaboration, however. While dragon-like form is not a constant in the Anishinaabe experience of Mishebeshu, he is described in the earliest sources as a “fabulous animal” (Allouez 1664 -67 in Thwaites 1896-1901, 50:289, where the name is given as *Missibizi*), “The Great Panther” (Perrot 1654 in Blair 1911-12, 59, *Michipissy*), “the great tiger” (Charlevoix 1761, 2:142), and “a sea tiger on which they put fins” (Pachot in Kinietz 1965, 287, *Bichi-Bichy*). Some modern and contemporary studies continue to characterize Mishebeshu as a feline monster (Brown and Brightman 1988; Howard 1965; Ray and Stevens 1984; Redsky 1972). Redsky, for example, describes Mishebeshu as an Animal the Indians used to offer tobacco [to] and worship highly... the *mishe -beshoo* is a huge, brown cat. It has (p.97)²⁶ webbed feet for swimming and lives in great big caves or holes in the ground. It acts something like a bear; it gathers moss and grass and places it in a hole where it hibernates until spring. This animal is always seen in the water or close to it. (120-21). (98)²⁷

The Manituolin artist Blake Debassige has painted Mishebeshu and calls his work simply, “One Who Lives under the Water.” The most well known rendering of the monster, at Agawa Rock on the North Shore of Lake Superior, shows him in bodily

²⁵ *ibid*

²⁶ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho, 1995.

²⁷ *ibid*

profile with his face turned from the viewer; it is from this pictograph that Debassige, Mel Madahbee, Mamie Migwans, and Anne Beam took their inspiration.



The original image done in red ochre sometime before 1850 is attributed to Myeengun, a mide shaman who undertook the long voyage from the south shore of Lake Superior to Agawa on account of a vision. Mamie Migwans gave me a different version of this painting's creation: "It's said that they used Mishebeshu's blood after they killed him. The Thunderbirds, they killed him. They used the blood to paint all these pictures." one aspect of Mishebeshu's mystery is indicated by Migwan's assertion: "The Thunderbirds, they killed him." Over and over in the myths we are told that Mishebeshu has been killed and

yet he continues to resurface. Like rough water, Mishebeshu, who is one and many, will always return.(p.101)²⁸

Both tail and horns are indications of Mishebeshu's immense power. He uses the tail not only to travel swiftly through the water roughen lakes and rivers and to strike boats of unwary and/or disrespectful humans. The horns here, as in all traditional Ojibwe drawings, are signs of extraordinary power. In the same mnemonic scrolls of the Midewiwin, a powerful shaman is easily identified by his horns and in one of Hoffman's scrolls from Red Lake, a shaman compares himself to the water monster even while he entreats him: "The place that is feared I inhabit the swift-running stream I inhabit... I have seen long horns...you [Mishebeshu] to whom I am speaking... See me, whose head is out of the water" (1891, 291-92).²⁹

According to Norval Morriseau, whom speaks of the little people as water creatures also: It is said among the Ojibway that the water beings were very wise and powerful. They lived in all the waters of the lakes as we do the land. They were seen by the Ojibway from east to west and from south to north. They are men, women and children and they live on fish, but I cannot say here that they live forever as I believe they must die as we do. It is said that our ancestors traded tobacco and pipes with them in return for medicine that was very powerful. They spoke a little different from us of the Ojibway, as their name was Maymaygwasiwuk that means in English "a person that speaks strangely."

²⁸ The Island of the Anishnaabeg: Thunderers and Water Monsters in the Traditional Ojibwe Life-World by Theresa S. Smith, University of Idaho Press, Moscow, Idaho,1995.

²⁹ *ibid*

These Maymaygwasiwuk were also powerful dream guardians. If an Ojibway Indian, when fasting, dreamed of these beings he would become strong enough to prevent a sorcerer from brining him onto his magic shaking tent. The water beings would help that Indian overcome the sorcery, for they had the power of knowing all matters upon the earth and the water.

When seen, according to the Ojibway, they had with them a stone boat with stone paddles. Some say the canoe moved alone, by some power. Also some say that they used to steal fish from nets. At one time they were chased in order to know who they were. The Maymaygwasiwuk would head for the shore line of cliffs, and the stone boat would go right into the opening as if through a door, which would be shut when the Ojibway got to the place. No door was to be seen. This was a very strange indeed. At other times their boat would sink where they lived. When the Ojibway got there all they would see were bubbles, then they would know who they were.³⁰,

Basil H. Johnston also writes of the little people, **The Manitous: The Spiritual World of the Ojibway and Ojibway Heritage**

The mythical little people are known by many names:

Bagwajiwini (also spelled Bagwajinini, Bagudzinini, Pukwudjininee, Puckwijinee, Puk-Wudjies, and other spellings.) These are mythological little people of the forests. Their name means "wild man" and is pronounced similar to bug-wuh-jih-wih-nih-nee or buh-gwuh-jih-nih-nee, depending on dialect. (The same creatures are sometimes also called *Apa'iins* or *Pai'iins* instead, which literally means "little person.") Pukwudjinees

³⁰ Norval Morriseau Legends of My People: The Great Ojibway, 1965

are mischievous but generally good-natured beings. ³¹

Memegwesi (also spelled Memengwesi, Memegweshi, Omemengweshii, Maymaygwayshi, and other ways.) These are small riverbank-dwelling water spirits. The Ojibwe plural is Memegwesiwak (or Maymaygwaysiwuk.) They are also generally benign creatures, but sometimes blow canoes astray or steal things when they are not shown proper respect.³²

Another who collected stories of the Ojibwe myths was Sister Bernard Coleman, she writes of the Little People from her sources of people who have seen or remember the stories:

The Little People:

Many times when the Indians are traveling in their canoes they see the strange little people, but they can never get near them. Sometimes the little people are in a canoe and sometimes they play on the cliffs along Lake Superior.³³

One time some Ojibwa saw some of these little men in a canoe on the lake. When the Indians tried to get near them, the little men jumped out of their canoe and ran up the cliff hiding their faces in their arms. (P. 52).³⁴

³¹ www.native-languages.org/chippewa-legends.htm -

³² *ibid*

³³ Ojibwa Myths and Legends: Sister Bernard Coleman, Ellen Frogner, Estelle Eich, 1961:

³⁴ Ojibwa Myths and Legends: Sister Bernard Coleman, Ellen Frogner, Estelle Eich, 1961:

On the next two pages is reference to Mount McKay, which is thirty six miles from my home and my relatives live there. Mt McKay is respected by the Ojibwe of the Fort William Band and all others who are aware of its significance.

Mount McKay



Mount McKay in early April 2007

Elevation	483 m (1,585 ft)
Location	Thunder Bay, Ontario, Canada
Coordinates	48°20'43"N 89°17'8"W
Type	Sill

Mount McKay is a [mountain](#) on the southern side of [Thunder Bay, Ontario, Canada](#), on the [Indian Reserve](#) of the [Fort William First Nation](#).^[1]

History

McKay was originally known as the "Thunder Mountain" (*Animikii-wajiw* in the [Anishinaabe language](#) and locally written as "Anemki-waucheu"). The mountain was used by the [First Nations](#) for sacred ceremonies. Only until the construction of the road were non-First Nations allowed on this land.^[2]

Features

A lookout exists on the lower eastern plateau at an elevation of 150m, providing a view of Thunder Bay and the city's harbour. A small memorial commemorates dead Aboriginal people that fought in wars. There is a path on the eastern face of the mountain than can be used for hiking. Plants on the mountain include [red](#) and [sugar maple](#) and [poison ivy](#) (*animikiibag*—"thunder-leaf" in the [Anishinaabe language](#)). The top of the mountain has [glacial erratics](#) and [jack pines](#). A small grove of [yellow birch](#) grows just south of the entrance gate.

A small, unmaintained trail can be used to reach the top (elev. 300m) from the lookout via the north face, with a heavy gauge steel cable that can be used for support. However, due to the grade and geology (mostly shale) of the face, this unsanctioned hike is considered dangerous, and is not recommended for novice hikers.

There is also somewhat of a trail on the west side of the mountain with somewhat of a giant stair case which is mostly shale it is more dangerous and harder then the north face.

Geology



Mount McKay in the middle of April 2008

Mount McKay is a [mafic sill](#) that formed during the [Midcontinent Rift System](#) event about 1,100 million years ago.^[3]

[Coordinates:](#) [48°20'43"N 89°17'08"W / 48.34528, -89.28556](#)



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³⁵ http://en.wikipedia.org/wiki/Mount_McKay