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Mine opponents sue MDEQ for issuing illegal permits

One week after a controversial decision by the Michigan Department of Environmental Quality to permit a sulfide mine in the central Upper Peninsula, the National Wildlife Federation, Keweenaw Bay Indian Community, Huron Mountain Club and Yellow Dog Watershed Preserve today filed a contested case petition and a lawsuit against the MDEQ as the first step in a legal challenge to halt the mine.

“The opponents of the mine have presented MDEQ with over 1000 pages of unequivocal evidence that Kennecott’s proposed sulfide mine does not meet the state’s legal requirements and would result in profound pollution, impairment, and destruction of air, water and other natural resources,” Michelle Halley, attorney for NWF and the other co-petitioners explained. “The MDEQ has issued permits that are based upon defective, inadequate and incomplete applications and are therefore illegal,” she added.

The MDEQ granted approval of all three permits to Kennecott Eagle Minerals Company on December 14, 2007. The contested case and lawsuit will focus directly on Michigan’s new nonferrous metallic mining law and the MDEQ’s failure to enforce the law and the prescribed standards and rules.

“Opponents of the mine have consistently fought the project because the construction and operation of the mine, as proposed, will result in the pollution of the environment and the destruction of natural resources in the Yellow Dog Plains due to scientific and engineering defects in the design of the mine. The contested case and lawsuit will address these issues, including the likelihood of subsidence of the mine, the probability of acid mine drainage, the irreversible impact of wetlands drawdown that far exceeds Kennecott’s assumptions, and the pollution of the groundwater and the air,” Halley said.

While legal action to challenge the mine’s safety and environmental impact has long been an option for opponents, Halley said a telling announcement this week by Kennecott’s parent company, Rio Tinto, fortified the resolve of the opposition. In the December 17 announcement, a Rio Tinto official said the company is now focused on six additional prospects in the region.

“We had long suspected that this was merely the first in a series of new mines, but hiding that information until after the MDEQ approval was announced is certainly contrary to the “good neighbor” image Kennecott has sought to portray. Whether they knew or not, the MDEQ and the Governor have egg on their faces. Let’s hope Rebecca Humphries puts an end, at least, to the notion of letting Kennecott use state-owned land as its pollution receptacle,” Halley commented.

On January 10, Michigan Department of Natural Resources Director Humphries is expected to announce her decision on a Kennecott request to lease state land for the purpose of constructing surface facilities. If allowed by the DNR, Kennecott would be granted exclusive use of 120 acres of state property for a period of at least 40 years.

With the prospect of multiple sulfide mines looming, Halley said the state must be compelled to fully apply the legal standards to the first permit and has failed to do so.

“Setting a precedent that starts with defective, incomplete, inaccurate applications and ends with a dangerous new mine is not in the best interest of the people of Michigan, nor its environment. NWF and our allies are fully prepared to exhaust all options,” the attorney said. Halley said that additional legal measures are also being prepared and will be filed within days.