

## **Woodland Road Comments:**

**Permit Application Review Timing:** The timing of the application submittal does not allow for reasonable public review and input. The quantity and spatial distribution of aquatic and terrestrial resources which would be impacted by the proposed project is quite substantial. The remote nature and inaccessibility of the proposed project area during winter limits the ability of the public to verify submitted data and information or to confirm observations recorded.

The DNRE consistently confirms that they value and recognize the need for public participation in the decision making process. Application materials have only recently been made available to the public and only limited data verification is possible. Major revisions were submitted on January 21<sup>st</sup> 2010 and only made available to the public on January 25<sup>th</sup>. Not allowing for reasonable public review, public fact checking, and public input into a permit review process only degrades the integrity of the process. Consider U.S. EPA insights contained in **Stakeholder Involvement & Public Participation at the U.S. EPA; Lessons Learned, Barriers, & Innovative Approaches (January 2001)**, where they confirm “Often, data credibility depends upon whether the data can be produced or confirmed by an outside source.” “Without a concerted effort to ensure reliable, trustworthy data, the stakeholder process may prove frustrating for all participants involved.”

Additionally, for a project with this degree of potential impact all voices should be heard and input solicited. Again using insight from the U.S. EPA “It can be easy to by-pass certain stakeholders and pull together a group where issues can be resolved with relative ease. However, lack of adequate participation or lack of effective means for participation can result in agreements or policies that do not necessarily reflect the interests of communities or constituencies that will be most impacted by them. “(**Stakeholder Involvement & Public Participation at the U.S. EPA; Lessons Learned, Barriers, & Innovative Approaches January 2001**)

**The Project review is out of context which leads to regulatory uncertainty and potential financial liability to the State of Michigan.**

The applicant’s project is one portion of their entire planned Yellow Dog Eagle Mine project and should be considered under the context and framework of Part 632 of NREPA. Considering this project outside that framework will potentially lead to both regulatory and liability uncertainties in the future for the State of Michigan if the project is approved. Mine haul roads are commonly found to be sources of environmental contamination of watersheds and groundwater, as storm water runoff carries heavy metals, oils, gas, sulfates, salts, and other contaminants into area aquifers, wetlands, and surface water bodies. Considering this proposed project outside the regulatory framework of Part 632 leads to uncertainty over what jurisdictional authority Michigan might have to require the applicant to address contamination problems when they develop in the future. Outside of the framework of Part 632 this proposed

road and affected area will not necessarily be considered as part of the mining affected area as it should be. If this project is not considered as part of the Yellow Dog Plains mining project then the financial burden for cleanup and mitigation will likely fall upon the State of Michigan when environmental contamination problems develop.

**The project purpose statement is presumptive.** The DNRE is under no obligation to accept the applicant's project purpose statement as the defacto statement of project purpose.

The applicant's primary goal is to provide a route for transportation of ore from the planned Eagle Mine in the Yellow Dog Plains. Alternatives to the proposed project transport route are available for that purpose. Other partners of Woodland Road LLC have little to no interest in alternatives examined in this analysis. What interest will Mr. Jilbert or Lindbergs have in the Dishno Road or the AAA-550 alternative? Since the answer is likely none, then why are these alternatives examined? Why is John Cherry the signatory to all Woodland Road LLC documents?

Timber companies have been transporting timber from areas in the Yellow Dog and Mulligan Plains, and the Michigamme Highlands for many years following existing routes. Recreation access is provided for through these same routes.

The DNRE is the agency with the authority to examine materials submitted and determine the primary purpose of the project and make a decision accordingly.

**Public support incorrectly presumed;** The applicant claims public support for this project based upon negative reaction to their other mining plan related project transportation proposals. Proper public input should be directly related to the issue being considered. This is a common mistake made by entities with little experience of working with the public. Concern expressed about a Great Lakes invasion by the silver carp can not be considered an expression of support for the big-head carp.

#### **Lack of primary data with which to evaluate impact**

The applicant has not provided any detail regarding numbers and type of vehicles anticipated. Numbers and types of vehicles anticipated is logically a primary piece of information necessary for a road construction project permit application and related environmental assessments. Certainly such basic information should be provided.

**Necessary data is missing;** Data that is crucial for evaluation of this proposed project is missing. Some key data not included is as follows:

- Proposed construction schedule and activities are not provided.
- Wildlife corridors are not considered. Disruption of corridors will occur.

- Amphibian data other than frog and toad survey is missing.
- Anticipated traffic types and loads. References are made to 40 ton trucks and 100 ton trucks. Clarification is necessary.
- Public use seems unlikely with the anticipated traffic types and truck tonnages. Public use will be unlikely if the applicant is running 100 ton trucks. Clarification is needed.
- Chemical loading of the surrounding environment will occur and will include heavy metals, herbicides, salts, sulfates, petroleum products, blasting compounds including nitrates, and other contaminants. No data or information regarding these materials is included. This is a very significant omission without which the environmental impact of the project can not be determined.
- Anticipated ambient air quality impacts resulting from road traffic are not determined or discussed. No data is provided. Ambient air quality degradation will occur and negative resource impacts will result. Additional data and information is needed.
- Chemical composition and sources of fill is not clear.

## **ALTERNATIVES ANALYSIS**

**Transportation regulatory risks stated are not substantiated or likely;** The applicant states that the City of Marquette, Ishpeming, and Negaunee, along with townships the County and Michigan Department of transportation have been actively planning for traffic levels in their jurisdictions. Any evaluations these entities are making has no unique relationship to Kennecott activities. Traffic evaluation and planning is part of the normal course of business for these entities. At between 2,000 – 50,000 vehicles per day on existing major routes through Marquette, Negaunee, and Ishpeming there is no conceivable situation in which truck traffic would be banned through these municipalities.

**Selected alternative need is presumed and not substantiated;** A number of statements made by the applicant can not be supported by any data or information. The applicant states that mining activity is on the increase in northern Marquette County. This is incorrect. Currently there is no mining activity in northern Marquette County. The applicant has expressed a desire to develop a mining operation in the Yellow Dog Plains, however this plan is currently being contested. Considering the uncertainty of any mining project moving forward in the Yellow Dog Plains the potential value of mining is presumptive and speculative.

**Potential Woodland Road benefits are unsubstantiated;** The applicant states that school children will be safer if Woodland Road is constructed but does not substantiate this with any supporting documentation or data. Appropriate data would include accident rates at their other facilities, safety records, vehicle maintenance records, and other such data. Claims of

necessity for protection of children should not be made lightly and should not be made without supporting documentation. Failure to demonstrate such claims lessens the integrity of an application.

The applicant states that construction of the Woodland Road will provide benefit through noise reduction on existing traffic routes but does not substantiate this with any supporting documentation or data. Many consultants are qualified to conduct noise studies. Failure to demonstrate such claims or provide data lessens the integrity of an application.

The applicant suggests that construction of the Woodland Road will provide benefit for elderly persons and those with respiratory illnesses living along current existing routes by not exposing them to emissions from the mining truck traffic, but does not substantiate this with any supporting documentation or data. Emissions level and type can be predicted by modeling and with detailed traffic prediction analysis. Emissions level and impact should also be modeled for the proposed Woodland Road. Human health risk is a serious matter and any such health risk analysis should be supported by providing data and information used during the analysis. This is necessary for both regulators reviewing permit applications and for the general public.

The applicant mentions that accidents will be reduced or prevented on existing routes if the Woodland Road is constructed but does not substantiate this with any supporting documentation or data. What is the applicant's accident rate? What accident rates do they have at other facilities they operate? Anticipated accident rates for the Woodland Road should also be determined from existing data. This claim can not be evaluated without any data.

The applicant states that the demand for emergency services has increased in the project area, but provides no data or information to support this claim. Supporting data should be provided such as 911 calls, emergency service vehicle traffic rates, specific examples, etc. This data and information is available if requested and should be required if this is used as to support presumed public benefit. Protection of human health and public safety is a serious matter and to properly evaluate needs supporting documentation is necessary. Failure to demonstrate such claims lessens the integrity of an application.

Improved landowner access is claimed as a benefit, but is not supported by data or information, such as petitions, or descriptions of public meetings held to collect public input specific to this project. The applicant briefly states that there is support from numerous entities for the project but supplies no supporting data or information. Again, additional data and information is necessary to support such claims in the application.

**Benefits presumed and not substantiated;** Public access is unlikely and should be discounted when considering this project. This proposed road would be privately owned with no

guarantee of public accessibility. The applicant has a history of restricting public access to public lands in the Yellow Dog Plains. Security guards have been hired to prevent people from accessing CFR lands, the applicant has at times blocked off vehicle access to the Northwest Road, which it does not own, and the applicant has informed people that access to its own CFR lands is trespassing and requires written permission. Current and past behavior can be used to predict future behavior and actions, or at least establish the lack of certainty for public access. This uncertainty regarding the potential for public access is sufficient to remove public access potential as a consideration when reviewing potential public benefits.

**Greenhouse Gas Reduction Benefits;** The applicant claims that the greenhouse gas reduction benefits and savings are substantial enough that by themselves they justify the project.

**Stated Greenhouse Gas Savings are Incorrect;** Greenhouse gas accounting is a complex and evolving science and thus it is no surprise that the applicant has incorrectly determined that their project will result in greenhouse gas savings. When the project is examined properly greenhouse gas emissions become a neutral or negative issue if considered in the decision. Greenhouse gas balance calculations for this particular project would require considerations of construction, land clearing, maintenance, and use. Also associated with project would be sequestration loss of forests and understory through maintenance of cleared land for the Woodland Road. Of the four main factors necessary to consider for determining a carbon balance for the proposed Woodland Road, the applicant has only examined one – road use.

Precise calculations are complex as stated previously and more project detail is needed. However, approximate green house balance for the project can be determined.

Carbon dioxide generated during project construction and land clearing is approximated at between 65,380 tons and 102,670 tons. Annual carbon dioxide reductions estimated by the applicant from using the Woodland Road versus other alternatives amount to between 7,218 tons and 4,124 tons. Thus somewhere between 17 and 125 years of use are required to put the project into a positive carbon balance situation depending upon which alternative is used for comparison. That's if the applicant planned on mining for 17 years. Considering they only plan on mining for 7 years, the number of years required to eliminate the carbon deficit created by construction and clearing is extended. If annual carbon sequestration losses from cleared lands are included in the carbon dioxide balance, the minimum time required to put the project into a positive carbon balance situation increases to around 30-40 years.

**Wetland Mitigation Determinations not properly considered;** The statement that all wetlands have been included whether regulated or unregulated is presumptive. It is not the applicant's prerogative to make this determination. The regulated versus unregulated determination is the responsibility of the state of Michigan.

**Appropriate wetland mitigation not provided for;** It appears that much of the applicants mitigation planning includes constructed wetlands, some of which will be constructed in borrow areas constructed for the project. This mitigation goal is convenient as opposed to appropriate. The likelihood of maintaining benefits and ensuring success of mitigation and no net loss of wetland benefits is not included but should be.

Some of the applicant's mitigation plans include wetlands constructed in watersheds other than that which wetlands will be filled. This is improper and results in loss of watershed specific wetland benefits.

National Research Council's 2001 report entitled Compensating for Wetland Losses under the Clean Water Act.

Notes:

- Constructed wetlands have a high rate of failure and the goal should be for all mitigation wetlands to become self-sustaining.
- Certain types of wetlands should be avoided due to the unlikelihood of suitable replacement
- Current regulatory replacement ratio of 1.5 mitigation:1 acre destroyed is not providing adequate compensation.
- Need to finish reading.

### **Habitat Fragmentation and Species impacts:**

The applicant's conclusions about likely impact to terrestrial species from road construction contradict scientific research conclusions, current natural resource management knowledge, and current natural resource management and protection policy.

Habitat fragmentation impacts resulting from this project will be substantial and severe. The Michigan Wildlife Action Plan, developed through an intensive outreach and public participation process identified the major natural resource threats to Michigan's fish and wildlife, and the major concerns of State residents. The two major issues identified as threats include invasive species introductions, and habitat fragmentation. , which is known to degrade fish and wildlife resources. The two major concerns of State of Michigan residents that were consistently raised also included invasive species introductions and habitat fragmentation. The Great Lakes Regional Collaboration and the Lake Superior Lakewide Management Plan (U.S. EPA) also identify and recognize habitat fragmentation as a major threat to sustaining fish and wildlife populations throughout Lake Superior basin.

Plans and policies in which habitat fragmentation are noted as major threats to fish and wildlife population resources.

**The Lake Superior Lamp.**

**Great Lakes Regional Collaboration**

**Great Lakes Restoration Initiative**

**Michigan's Great Lakes Restoration Strategy**

**Michigan Strategic Framework for the 2010 Great Lakes Restoration Initiative**

**Michigan Wildlife Action Plan**

The applicant states that unbroken habitat is not present in the proposed project area. This is incorrect.

**Chemical stressors and ambient air.**

The applicant has not included any data or information about likely chemical inputs and stressors or ambient air quality.

Chemical inputs into the surrounding aquatic and terrestrial environments include heavy metals, salts, petroleum products, and likely sulfate.

Copper inputs into the surrounding area are likely and are of particular concern. Copper is toxic to aquatic organisms at very low concentrations.

Wetland acreage and linear footage = actual wetland acreage exposed to degradation from copper.

Need nickel and cobalt toxicity data.

Ambient air quality isn't addressed or discussed.

**Copper**

Copper ore dust that will be released along the road is a particular concern. Copper is toxic to aquatic organisms at very low concentrations. All aquatic ecosystems along this road are likely to be negatively impacted by the input of copper. Downstream aquatic habitat will also be impacted by copper toxicity as material naturally migrates downstream.