



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 01 2010

OFFICE OF
WATER

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

Dear Mr. Cherry:

This is in response to Kennecott's withdrawal on March 24, 2010 of a permit application for an Underground Injection Control (UIC) Class V permit under the federal Safe Drinking Water Act (SDWA) for a Treated Wastewater Infiltration System (TWIS) to be constructed at the Kennecott Eagle Mine in Marquette County, Michigan.

We have reviewed the revised plans for construction of the TWIS and agree that a permit is not required under the federal UIC program for the infiltration system as currently designed. Based upon our review of the modified TWIS design, the lateral perforated piping that constitutes the fluid distribution system is above ground and is thus not a subsurface system. If there are further changes to the design of this unit, we will have to reconsider whether federal UIC requirements apply. Please notify us as soon as possible of any substantial changes to the design.

As you know, EPA retains authority under SDWA, as well as other law, to take any necessary action to address possible contamination from the TWIS that may endanger underground sources of drinking water regardless of the design of the unit or its permit status. We understand that discharges from the TWIS are subject to a State permit that includes monitoring and response requirements. We will continue to coordinate with the State to determine whether any federal response action with respect to the TWIS is necessary.

I understand that because of the significant community and tribal interests involved in the Kennecott Eagle Minerals Project, EPA Region 5 recently has held meetings with you and the Keweenaw Bay Indian Community in an attempt to resolve some of the issues associated with the proposed mine. I encourage you to continue this dialogue. It is EPA's expectation that Kennecott will follow through on efforts to consider all viewpoints, and consider any appropriate environmentally beneficial changes to the Project.

Sincerely,

A handwritten signature in black ink, appearing to read "P. S. Silva".

Peter S. Silva
Assistant Administrator for Water