

RioTinto

**Kennecott Eagle Minerals**

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RECEIVED

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UIC BRANCH  
EPA REGION 5

July 30, 2009

Ms. Tinka G. Hyde  
Director, Water Division  
USEPA Region 5  
77 West Jackson Boulevard  
Mail Code: WU-16J  
Chicago, Illinois 60604-3507

**Re: Meeting to Consider Reasonable Measures to Address Keweenaw Bay Indian Community's Cultural Resource Concerns Regarding the Eagle Project**

Dear Ms. Hyde:

Thank you for meeting with me in March to discuss the status of our project, our Underground Injection Control ("UIC") permit application and EPA's review under Section 106 of the National Historic Preservation Act ("NHPA"), which has been ongoing for approximately two years. As discussed during that meeting, this letter concerns Kennecott Eagle Minerals Company's ("Kennecott") UIC permit application and the consideration of reasonable measures to address cultural resource concerns of the Keweenaw Bay Indian Community (the "Community") about Kennecott's Eagle project.

We have previously indicated on numerous occasions, both orally and in writing,<sup>1</sup> that Kennecott remains willing and eager to meet with the Community to listen to the Community's specific concerns and consider reasonable measures to address those concerns. We reiterated that desire most recently during our March 2009 meeting with EPA in Chicago. We believe such a meeting should take place regardless of NHPA's applicability and regardless of whether "eligible" properties under NHPA exist in the area, as Kennecott's commitment to respecting the cultural values of American Indian communities near its projects is a function of company practice, not just statutory requirements.

As I have mentioned to the Community in the past, our parent company, Rio Tinto, is working closely with a number of First Nations in Canada and has developed agreements with them that have resulted in successful sustainable business partnerships. This might be of interest to the Community and it would be my pleasure to once again discuss similar opportunities with the Community.

<sup>1</sup> Please see, for example, my April 1, 2005 letter to Susan LaFerner, and the August 18, 2008 and February 19, 2009 letters from Kennecott's counsel to EPA.

As you know, Kennecott has previously articulated various measures to EPA and the Community in an effort to address the Community's expressed concerns. To date, however, the Community has not offered specific approaches that it believes will resolve its concerns. We understand that EPA has asked the Community to offer suggested approaches, and we again echo that request.

As we discussed during our meeting in March, Kennecott stands ready to discuss a multitude of possible measures in an effort to resolve the Community's concerns. Some of these measures may already be incorporated in the various permitting and lease documents required by the State of Michigan. Other possible measures have been previously discussed with EPA and/or the Community over the past several years. For example, we are aware that the Community has expressed concern about access to the rock outcrop. As previously discussed, we are prepared to explore the possibility of providing reasonable access to the rock outcrop during designated times that may be of particular importance to the Community, subject to appropriate safeguards. This is but one example of the type of measures that could be discussed at a meeting with the Community.

We believe that it could be helpful to have a meeting with EPA, the Community and Kennecott facilitated by an experienced mediator, and we are willing to pay for that service. We are agreeable to conducting the meeting at the Community's offices in Baraga if that is most convenient or a place of the Community's choosing. Consistent with the concerns in your May 5 letter to the Community in seeing that the process proceeds at a reasonable pace, we hope to meet with the Community as soon as possible.

Thank you for your consideration. We hope that EPA and the Community will accept Kennecott's offer to meet to discuss the Community's cultural concerns and consider how they might be addressed, and we look forward to the Community's and EPA's response.

Please feel free to give me a call if you have any questions.

Sincerely,



Jon Cherry, P.E.  
General Manager

***Via FedEx and E-Mail***

cc via FedEx: Mr. Warren C. Swartz, Jr., Keweenaw Bay Indian Community, President  
Mr. Robert Thompson, EPA  
Ms. Joanna Glowacki, EPA  
Mr. Rodger Field, EPA  
Dr. Stephen Roy, EPA  
Mr. Brian Grennell, SHPO  
Dr. John Eddins, ACHP