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> [News](#) > [Local News](#)

Print this Page

[«--back to story](#)

Groups sue over mine

By JOHN PEPIN, Journal Munising Bureau

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MARQUETTE – Attorneys working for the Kennecott Eagle Minerals Company and Michigan Department of Natural Resources were expected to be poring over the contents of a new lawsuit today.

Four groups opposed to Kennecott's nickel and copper mine on the Yellow Dog Plains filed suit against the DNR Thursday in Ingham County Circuit Court in Lansing.

The National Wildlife Federation, the Huron Mountain Club, Keweenaw Bay Indian Community and Yellow Dog Watershed Preserve oppose Kennecott's plans to construct surface facilities for its underground mine on 120 acres of state land.

The DNR granted approval for a surface use lease earlier this month to Kennecott, which will have exclusive use of the land for decades.

Article Photos



HALLEY

"The State of Michigan has never issued a lease of state lands similar in scope to this one in terms of the amount of land at issue, the period of years, the risky nature of the proposed activity and the long-term implications," said Michelle Halley, an attorney with the National Wildlife Federation in Marquette. "This decision is a pivotal one for the future of Michigan's public lands and this flawed decision cannot go unchallenged."

The opposition groups, which are co-petitioners in the lawsuit, say the DNR permit approval violates the Michigan Environmental Protection Act, the Michigan Revised Judicature Act, and Michigan's public trust doctrine.

They want to court to "declare the surface lease void, find that the conduct related to the surface lease would pollute, impair or destroy natural resources, and therefore instruct the DNR and Kennecott to halt any conduct related to the surface lease."

Jon Cherry, Kennecott's Eagle Project manager, said the mining company is still reviewing the suit, having just received a copy of it Thursday.

"The Eagle project has been designed and permitted to comply with all Michigan laws, including those specific to ensuring protection of the environment and benefit to the public interest," Cherry said. "We have confidence in the rule of law, and that justice will be served in this case."

Mary Dettloff, a spokeswoman for the DNR in Lansing, said the agency does not comment on pending litigation. She said the state would be represented in the suit by counsel from the Michigan Attorney General's office.

Halley said that by entering into the surface lease, the DNR violated its duty under state law to "refrain from authorizing conduct that is likely to pollute, impair or destroy the air, water or other natural

resources, or the public trust in those resources, if there is a feasible alternative.”

The opposition groups said Kennecott owns land in the vicinity that “would meet the criteria of a feasible alternative.”

But in its permit application, the mining company contended that despite Kennecott property being located nearby, the state land site is the least environmentally harmful place to locate those facilities.

Before granting their approval, DNR officials asked Kennecott for clarification on its site selection process used and ultimately said they agreed with Kennecott’s site choice.

The four groups suing the DNR filed suit and a contested case petition in December against the Michigan Department of Environmental Quality. That lawsuit and petition came after the DEQ granted mining, groundwater and air quality permits to Kennecott for the Eagle project.

An administrative law judge is expected to hear the contested case petition on April 28. No court dates have been scheduled for the DEQ or DNR lawsuits.

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