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December 21, 2016

VIA ELECTRONIC MAIL AND REGULAR MAIL
DEQ-Mining-Comments@michigan.gov

DEQ Back Forty Comments
Office of Oil, Gas, and Minerals
1504 West Washington St.
Marquette, MI 49855

Attn: Alvin Lam
Permits Section
Water Resource Division
Michigan DEQ
PO Box 30458
Lansing, MI 48909-7958

Ms. Tiffany Myers
Lake Michigan and Superior Permits Unit
Michigan DEQ
525 West Allegan St.
Lansing, MI 48909

Re: Mining Permit Application #14A021,
NPDES Permit Application #MI0059945, and
Air Emissions Discharge Permit Application #205-15
Aquila Resources Back Forty Project

Dear DEQ:

I write to provide a supplemental comment on these three pending permit applications. I previously submitted comments during the designated period. I have family connections to the Menominee area and particularly to the river. My Grandparents are buried next to the river.

New information has recently come to my attention about this project. Consequently, I am providing additional comments.

The applicant for these three permits recently issued an Investor Presentation brochure or report. A copy is attached to the email transmitting this comment.

In that report, the applicant specifically represents that it **does** intend to pursue

underground mining at the current location **as part of** this project.[1] Clearly the representations previously made by this applicant to the DEQ - about this **only** being an open pit mine - are **not accurate**. It is equally clear that any environmental impact analysis for this proposal **must include** evaluation of the potential impacts of an underground mine, as well as an open pit mine.

Such mining is clearly now reasonably foreseeable. The applicant has represented that such mining is "part of" this project and that it won't happen without this project. Failure or refusal to evaluate the impacts of a reasonably foreseeable future portion of the same project would constitute unlawful segmentation or "piecemealing." That would, in my view, be contrary to the Michigan Environmental Protection Act (MEPA).

The applicant has also included in its representations to its investors a map, showing the location of the additional underground ore bodies. A number of these locations are along the Menominee River, but **outside** of the current project site boundaries.

The expansion of mining to those areas raises serious questions about additional potential pollution of the river and/or damage to a riverine resources. These issues need to be fully and carefully evaluated, before any permits are issued.

In addition, the applicant represents (page 24), that this project includes: (a) a power supply transmission line, (b) a new power substation, (c) extensive road construction, and (d) a new rail line constructed to the east of the project. **All** of these are activities that will have potential impacts on the environment, both natural and built. **All** of these are clearly part of the same project. The DEQ must insist on a full analysis of the potential impact of **all** this "mine infrastructure" before further processing these permits.

Through no fault of the DEQ, this application has become a proverbial "moving target." First the applicant says they intend to mine underground. Then they represent they are not planning to do so. Now they have represented that underground mining **is part of** this project, **and** that there are also multiple additional infrastructure components to the project.

The pending applications should all be sent back to the applicant with directions to completely revise them, to incorporate the new and/or corrected information, and to complete all the necessary studies and evaluations of the **full scope** of the Back Forty project. The revised applications should then be subject to careful evaluation by the DEQ. They should thereafter be Noticed for public comment.

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[1] Specifically on page 12, the applicant admits that it already engaged in a "feasibility study to include underground earlier in open pit life." (Emphasis added.) Similarly on page 13, the applicant represents that the current application for an open pit is merely "**Phase I:** Underground permit application **will follow** start of commercial production." (emphasis added)

Failure or refusal to do so, in the face of this significant new information, could well be found to be unlawful under MEPA and/or the due process clauses of the respective State and Federal Constitutions. Moreover, it would be a waste of the no doubt scarce agency resources to try to complete a review of the current permit applications evaluation now, merely to have to revisit the project in the near future to address both the Wetlands permit, the underground mining, and the other infrastructure that the applicant now admits are **all** part of the project.

I trust you will find these supplemental comments helpful.

Sincerely,

Karl G. Anuta

KGA/kr
cc: All w/enc:

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