



November 1, 2016

DEQ Back Forty Comments
Office of Oil, Gas, and Minerals
Michigan Department of Environmental Quality
1504 West Washington Street
Marquette, MI 49855
DEQ-Mining-Comments@michigan.gov

SENT BY ELECTRONIC MAIL

RE: Public Comment on Back Forty Mine on the Menominee River

Dear Michigan Department of Environmental Quality,

The Menominee Nation's creation and cultural history is in the headwaters of the Menominee River and its adjoining land base. They are all being threatened with obliteration from open-pit mining. The Menominee River also produces lake sturgeon that spawn and replenish the river ways and Lake Michigan waters with new generations of fish as it empties at Green Bay into Lake Michigan after 116 miles.

Aquila Resources, Inc. is a development-stage company for open pit mining operations and has three assets to date. Who owns this company?? The first, Back Forty Project, just across the Wisconsin border in Michigan, is the flagship for laying the foundation to 'ramp-up permitting activities' for the next two located in Wisconsin – The Reef Gold Project in Marathon County and the Bend Project in Taylor County, partly in the Chequamegon-Nicolet National Forest. An Aquila news release Sept. 27, 2016 reports a new mineralized zone "a considerable distance" from the Back Forty has the potential to add to this project of 580 acres. 150 meters from the last pinwheel intercept ...to the northeast and 500 meters from the included resources and then extends an additional 600 meters to the south west. This is another threat to the Nation's cultural landmarks and our waterways and the environment. Assays are still pending for this third and deeper undercut.

Artificial segmentation of interrelated projects is manifestly inconsistent with the National Environmental Policy Act (NEPA) which requires the analysis of cumulative effects. NEPA defines cumulative effects as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR § , 50B.7).

Pursuant to 38 CFR § 200.4 (Implementation of NEPA and related authorities), segmentation "can occur when an action is broken down into small parts in order to avoid the appearance of significance of the total action. An action can be too narrowly defined, minimizing potential impacts in an effort to avoid a

higher level of NEPA documentation. The scope of an action must include the consideration of connected, cumulative, and similar actions.”

Particularly as these projects are expected to have similar negative environmental, cultural, social, ecological, aesthetic, human health and biological effects, the contrived segmentation of analysis will underestimate cumulative effects and risks. As other public commenters have noted, the extent and magnitude of resulting cumulative effects could exceed the capacity of affected resources to be sustained and remain productive, contradicting the purpose and intent of NEPA.

It is our understanding that the Wisconsin Department of Natural Resources (WDNR) was asked by the Michigan Department of Environmental Quality for consultation regarding the Back Forty Project. Federal regulators plan to visit the Wisconsin Department of Natural Resources headquarters this week to investigate claims the WDNR is failing to enforce water pollution laws and regulations. The EPA is investigating WDNR water quality enforcement files and possibly stripping the WDNR of its regulatory authority, officials said. In the same way, compliance with NEPA will assuredly be a consideration.

We stand by and with the Menominee Nation for all our future.

Sincerely,

Laura Olah, Executive Director
D.M. Schmitz, Board President

CC: Jeremy Pyatskowit, Director, Environmental Services, Menominee Indian Tribe of Wisconsin