



The Upper Peninsula *Environment*

Newsletter of the Upper Peninsula Environmental Coalition • July—August 1992

Soil burner for Skandia?

Some 250 people packed a public hearing in July to tell the DNR they don't want an soil incinerator in Skandia (about 12 miles south of Marquette). The proposed incinerator would burn soil contaminated by underground gas storage tanks. Board member Jon Saari reports that the depth of feeling expressed by the citizens at the hearing was remarkable, and that testimony was virtually unanimous in opposing the burner. The project had previously been approved by the Marquette County Planning Commission—a move that came as a surprise to many people.

A strong new grassroots group called Keep Skandia Clean has quickly organized among local people to fight the proposal. They have already gotten the Marquette County Commission to pass a resolution opposing the burner. UPEC's Marquette Chapter has helped disseminate info on these kind of burners. Concerns have been raised about toxic pollution going out the smokestack and about the reliability of emissions data, which are monitored by the operator, not an independent outside party or the DNR. Also, the burner is close to (and possibly in) wetlands and an eighth of a mile from the west branch of the Whitefish River, which is currently being studied for inclusion in the Wild & Scenic Rivers System. Based on these concerns, the UPEC Board passed an emergency resolution opposing the incinerator and made sure it got to the DNR before the Skandia hearing.

Sadly, the decision about whether to grant the operating permit will probably be made on technical grounds by DNR people who weren't even at the hearing. As Saari notes, all the emotion and atmosphere of the hearing is now nothing more than scratchy voices on an audio tape. We can only hope something of the community consensus trickles down to Lansing and makes a difference in the DNR's decision, which is expected to come within three months. The issue continues to unfold and we may become more deeply involved.

Upcoming UPEC meetings

August 19: UPEC Marquette Group meeting. Village Inn, 1301 N. 3rd St., Marquette. 7 pm ET. **August 24:** UPEC Houghton Group meeting. Portage Lake United Church, Houghton. 7 pm ET. **September 14:** UPEC Board meeting—all members & friends welcome! Champion Town Hall, Champion, 7 pm ET.

Little Presque Isle plans sidetracked by public outcry

Thanks and congratulations are in order for all the people who responded to our appeal in the last *Environment* (and to those who have bolstered the Citizens to Save Little Presque Isle)! A strong show of force at the Natural Resource Commission's annual U.P. meeting in June has undone—for the moment—the DNR's "done deal" on developing Little Presque Isle and Wetmore Landing north of Marquette. Dozens of citizens made the trek to Escanaba to address the Commission. Speaker after speaker called on the commissioners to stop the development, and they heard the message. They ordered the DNR to halt construction of a campground at LPI/WL, one of the last undeveloped stretches of Lake Superior shoreline near Marquette. The DNR had its heart set on beginning building the campground this year. Now, the agency will have to do more studies of the environmental and archeological effects of the development and take more public comment on its plans.

Suit claims Menominee dump being allowed to leak

People concerned about toxins leaking from the Menominee city dump have sued the responsible authority. Leslie Koster of Amberg, Wisconsin, and Dale Pape of Menominee reported to the UPEC May Board meeting about their suit against the Menominee-Marquette County Airport Commission, the owner of the city dump since 1983. Koster and Pape charge that the Commission has been aware of illegal acceptance of hazardous substances at the dump, including methylene chloride, toluene, and others. They say that the Commission, has not prevented surface water, rain, and snow from infiltrating the dump and subsequently contaminating groundwater. Koster and Pape also believe the leaking dump is fouling the Menominee River—itsself already a toxic Area of Concern—and Lake Michigan. Their suit challenges the legality of a federal grant to pay for covering the dump and asks for a restraining order on current cleanup work. Koster and Pape want to use federal Superfund law to force a private-party cleanup, rather than using public funds. They organized a protest at the federal courthouse in Marquette on June 10 to speak out against their suit's being heard in Lansing rather than Marquette, making it all but impossible for UPers to participate.

News & Notes

Threatened beaches In July the enviro group Clean Water Fund released a study that concluded overdevelopment, not pollution, is now the most serious threat to Great Lakes shorelines. The report identified a number of U.P. beaches as threatened, including Little Presque Isle (Marquette Co.); Bete Grise, the mouth of the Montreal River, and Lac la Belle (Keweenaw Co.); Whitefish Point, the shores of the St. Marys River, and parts of Drummond Island (Chippewa Co.); Bois Blanc and Les Chenaux islands and the mouth of the Crow River (Mackinac County); and Portage Point and the northwest shore of St. Martins Island (Delta Co.). Even Pictured Rocks National Lakeshore was cited, with the group citing the National Park Service's rim road plans (see related story next page).

White Pine smelter most toxic site EPA published its annual toxin release list in June, and the Copper Range copper smelter in White Pine (Ontonagon Co.) was far and away the single largest toxic polluter in Michigan. The company maintains that its pollution is legal and not permanently damaging. The DNR has been mired in consent-order negotiations with Copper Range for two years trying to get the company to obey the law and follow the air-quality emissions limits for its stack.

Adopt a river! At the May Board meeting, Kraig Klunness reported that the Riegler-convened study committee on future Wild & Scenic Rivers designations is weighted in favor of anti-environmental interests. There are committees being set up for each of the 11 U.P. study rivers and it is vital that enviros are on every one. If you live near a study river, or want to work on a favorite river, drop us a note at the UPEC box. We will be contacting the Hiawatha and Ottawa National Forest staffs and coordinating with other enviro groups to help create the committees.

Torch Lake plan gets support UPEC's Board and many individual UPEC members wrote letters to EPA in June and July to support the agency's plans for cleaning up parts of the Torch Lake Superfund site, which stretches from Copper City to Freda. The EPA's plan, price-tagged at \$7.2 million, would cover the stamp sand wastelands left over from copper mining with soil and then revegetate them. This rather innocuous plan was greeted by a withering chorus of whining by local officials in Houghton and Keweenaw counties. They claimed that the Superfund site is no danger to public health or the environment, that the Superfund designation is a stigma preventing economic growth and the creation of a new National Historical Park, and that the EPA plan would bring a spate of lawsuits against local governments and private landowners from the successors to the mining companies that are responsible for the environmental destruction. The day before the public comment period closed, Windigo Group of the Sierra Club asked EPA to defer its decision until it produces the cleanup plan for the remaining parts of the Superfund site. A decision is expected soon.

Diversion nixed In May Engler used his power under a 1986 federal law to veto a diversion of water from Lake Michigan. The town of Lowell, Indiana, which lies just outside the lake's watershed, had requested a diver-

sion of nearly 2 million gallons a day. Lowell's drinking water is contaminated by natural fluoride. Engler vetoed the diversion because it would set a bad precedent. The plan would have lowered Lake Michigan's level by far less than an inch.

Cormorant die-off Between 500 and 700 cormorants have been found dead on islands in Lakes Superior, Huron, and Michigan recently, according to news reports in July. Officials at the National Wildlife Disease Lab in Madison think the deaths are being caused by an avian disease of poultry.

Spearing in U.P. Unlike some past years in Wisconsin, boat landings in the U.P. were peaceful this spring as members of the Lac Vieux Desert tribe (based in Watersmeet) began spearfishing on Lake Gogebic. Some 40 walleye were taken from the lake. LVD members got together with the local Chamber of Commerce and law enforcement agencies before the season opened, and that helped deter trouble. According to the Great Lakes Indian Fish & Wildlife Commission's newspaper *Masinaigan*, "while spectators did arrive at the landings, it proved more of an opportunity to converse and share information than a confrontation."

Falls trail rebuilt Pictured Rocks National Lakeshore is rebuilding a trail to Munising Falls that was closed by a rockfall last November. For safety reasons, part of the trail that allowed people to walk behind the falls has been permanently closed. From now on, visitors will be able to look at the falls from viewing platforms on either side.

Levin hiking the U.P. As part of his pledge to get the U.P. portions of the North Country Trail completed by 2000, Levin will be hiking sections of the trail in early September. The public is welcome to join him. On Friday the 4th, he will be on the trail north of Bruce Crossing, where it crosses the Baltimore River. On the 5th, he will take part in the certification of the Craig Lake segment. On the 6th, he will help dedicate the segment at Wetmore Pond, take part in a public hike at Little Presque Isle, then hike a segment near Munising, and finally hike in to St. Ignace from Brevort.

GLM zoning vetoed In a move that caught all of us enviros by surprise, the Department of Commerce has told Keweenaw County that they have to go back and redo their rezoning of the site of the proposed Great Lakes Minerals copper mine near Gratiot Lake. In June the county board ratified a recommendation from their zoning & planning commission to rezone land to allow mine development to go forward. AWAKE and UPEC had prepared extensive comments on the rezoning, which were ignored by the county commissions. After the rezoning decision was made, the plan was sent to the DOC for what we thought would be a pro forma approval. But the DOC said that the County did not publish one of its zoning hearing notices correctly, so it has to re-do the hearings. All this adds up to a considerable delay for GLM, which had hoped to start developing the mine this year. UPEC and AWAKE continue to press the DNR and Engler to order an EIS for the proposed mine, which could be the kick-starter for many more in the Keweenaw Peninsula. (For a related story on this issue, see the next page.)

Activists "SLAPed" with freedom-of-speech suit

Three activists with the grassroots group AWAKE (Association Working Against Keweenaw Exploitation) have been sued by the company which wants to open a copper mine near Gratiot Lake. Great Lakes Minerals alleges that the three damaged its business prospects with what it claims are false statements distributed on an information sheet this spring. The action has all the markings of a SLAPP suit—a Strategic Lawsuit Against Public Participation.

If you've never heard of SLAPP suits before, they are a relatively new tactic being used by corporate polluters to try to stifle opposition to their projects. The plaintiffs sue people who have spoken out against their projects, using a variety of pretexts. Defendants find themselves losing support among family, friends, and colleagues because they get bogged down in a drawn-out suit. Some become disillusioned and quit working on enviro issues. This, of course, is all to the advantage of the plaintiffs. The point of these suits is not to win them, but to put the opposition into an expensive legal quagmire. Hundreds of SLAPP suits have been documented nationwide, and the trend toward SLAPPs has been written up in a number of big-circulation enviro magazines. Ironically, most of the SLAPP suits are eventually dismissed by the courts because they are seen for what they really are: an attempt to "chill" the opposition into silence by directly threatening our right to free speech.

In the AWAKE case, the defendants have vowed to not be silenced, and have retained legal counsel to fight GLM's suit. This sort of assault on public debate is a direct threat to the viability of all environmental activism, and must be fought tooth and nail at every turn. Therefore, we have set up a special legal defense fund on behalf of the AWAKE plaintiffs. All monies donated to the fund will be disbursed directly to legal counsel. Please consider sending a check to the fund to preserve our right to speak out on behalf of the environment. Make your checks payable to UPEC, but make sure to note "AWAKE legal defense fund" on the memo line. Send your check to: UPEC, P.O. Box 34, Houghton, MI 49931.

Pictured Rocks road impacts studies completed

As part of the EIS on the proposed Beaver Basin Rim Road through Pictured Rocks National Lakeshore, the National Park Service commissioned a number of impacts studies for various natural and cultural aspects. These baseline data-gathering studies were done between June 1990 and March 1992. Here's a summary of what they found, taken from a park newsletter dated April 1992.

Mammals Two projects, one on large mammals and one on small, were done. The large-mammal survey found that the most common species in the park is coyote, with pine marten also abundant. The researchers even found direct evidence of gray wolf in the park through one set of tracks! There is no evidence of gray fox, mountain lion, lynx, or badger. In the second study, no threatened,

endangered, or rare small mammals ("listed species") were found.

Nesting birds No threatened or endangered species were found. More species use the buffer zone than the shoreline of Lake Superior. Bald eagle and osprey were seen on Beaver Lake, and common loons on Grand Sable Lake.

Herpetofauna The proposed road area is rich in reptiles and amphibians, with 19 of the U.P.'s 26 species found. The only listed species found was the wood turtle—the first known sighting of this species in Alger County. Herps preferred the park's ponds and inland lakes, sphagnum bogs, and northern hardwoods stands.

Invertebrates A literature search, rather than field study, indicated that there is the potential for more than a dozen listed invertebrate species (both insects and gastropods) to occur in the road construction area.

Vascular plants The search for listed vascular plants in the road corridor turned up nothing. More field searches for a flattened oats and New England sedge are being done this summer.

Bryophytes Nearly 130 mosses and 13 liverworts were found in the park, 15 of them rare, 8 of which occur within the proposed corridor of the road. The researchers felt that some species would be locally extirpated by the building of a road, but that the loss would not be significant for the overall taxa.

Habitat fragmentation A literature review indicates that the proposed road "would fragment existing habitat and alter the wildlife and vegetation composition of the proposed road study area. Some species would benefit from the changes, others would not." The specific effects from this fragmentation on Pictured Rocks are not well understood.

Archeology No significant sites were found.

Noise More traffic would create more noise in the park, particularly near Legion Lake and Twelve Mile campground. Most hiking and camping areas would not be affected. The field study found that the increased noise would not harm wildlife.

Visual impacts The park did a video simulation of various roadway alignments and asked viewers to rate the ones they liked best. UPEC has roundly criticized this study from its inception because it did not include a "no road" option. Predictably, viewers preferred a curving road with a semi-natural berm.

Visitor survey Perhaps the most important survey result—maybe the bottom line—was the finding that visitors to the park do not want the road. As the NPS newsletter rather laconically puts it, of the three options given in the survey "construction of the proposed Beaver Basin Rim Road was generally rated by all three visitor groups [backpackers, day hikers, and nonhikers] as the action they least supported."

The next steps According to NPS, it will prepare a draft EIS using the study info in August 1992, put it out for public review in November, analyze comments in January 1993, prepare the final EIS in July 1993, and announce their final decision in August 1993. As always, UPEC is watchdogging the process as it slowly wends its way through the muddy channels of democracy.

UPEC joins with other groups to demand fines for Mead

Five U.P. environmental groups have joined with UPEC to demand that the Environmental Protection Agency (EPA) enforce the federal Clean Air Act and impose fines on Mead Corporation for repeated air pollution violations at its Escanaba mill. The other groups are Dickinson Citizens for Clean Air, based in Norway; FOCUS, based in Ontonagon; Friends of the Land of Keweenaw, based in L'Anse; the Windigo Group of the Sierra Club; and Association Working Against Keweenaw Exploitation, based in Gratiot Lake.

According to the EPA, Mead has violated the Clean Air Act by illegally exceeding limits for emissions of total reduced sulfur. Mead has also failed to operate its continuous emissions monitoring system on one power boiler "during a significant portion of of the first and fourth quarters of 1990 and the fourth quarter of 1991," according to the EPA. There was also "significant downtime" for the monitoring system on one of the mill's recovery boilers, making it impossible to even measure the total reduced sulfur pollution Mead is producing.

"We want to know why the EPA is not planning to punish Mead for these repeated violations of federal law, which carry penalties of up to \$25,000 per day. "Corporate crime is every bit as serious as crime committed by individuals," said the six groups in a press release. "We do not intend to let the EPA simply walk away from its responsibility to uphold the laws of the United States."

Like all paper mills, Mead's Escanaba plant is a self-monitoring, self-reporting facility. EPA gets all its violations information straight from the company. "Then, when the company does report violations, it apparently has the luxury of negotiating away any punishment," said the groups. "If corporate crime goes unpunished, it sends a message to all companies that vital environmental and public health regulations don't mean anything."

We also want to know why the Michigan DNR was unable to resolve these violations in negotiations with Mead that went on for months before enforcement authority was handed over to the EPA. "We unanimously demand that the EPA enforce the federal Clean Air Act without compromise, and fine Mead Corporation the maximum amount for every day they broke the law," said the groups. "We want to see the fine money earmarked for air pollution prevention and control." The six groups will be pressing their case with the EPA and DNR in upcoming weeks.

Yes! I want to protect the U.P.!

Name

Address w/Zip

Phone

- ☐ I want to protect the U.P. by joining UPEC. My annual dues are enclosed (\$10 regular, \$5 senior citizen/student/low-income).
- ☐ Here's an extra contribution of \$_____.
- ☐ Please send my non-profit group information about organizational membership. Annual dues for organizations are \$15.

Dues & contributions are tax-deductible!

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