



# The Upper Peninsula ENVIRONMENT

Newsletter of the Upper Peninsula Environmental Coalition Jan-Feb 1994

## The President's Corner: UPEC Sets Agenda For '94

Jerry Smith

UPEC Board Members attended a day-long retreat in mid-December in order to determine areas of concentration for the coming year. All those present agreed that Lake Superior/Zero Discharge, Forestry Practices, Natural Areas, and Fundraising are the prime UPEC issues. Goals and strategies were mapped out.

**Lake Superior/Zero Discharge:** UPEC will hammer on this issue all year. The DNR Lakewide Area Management Plan meetings were just a beginning. Now we will be doing press releases, editorials, public information, and actions. Contacts are Michael Huntley, Mikel Classen, Joanne Welsh, John Manty, Cindy Brown, Gayle Coyer and I.

**Forestry:** By spring, a summary of the UPEC forest survey should be complete and available for review by the membership. Michael Huntley, Mikel Classen, Doug Welker, Chris Burnett, Gayle Coyer and Connie Julien will be working on forestry issues including biodiversity, old growth, and logging practices.

**Natural Areas:** This issue includes the Sylvania Wilderness Area and the controversy surrounding motorboat use. Bill Malmsten will continue to take the lead on Sylvania. Other natural areas of concern for UPEC include Grand Island, wild and scenic rivers, Little Presque Isle near Marquette, the Rock River Wilderness, and landfills.

Contact Bill Robinson, Mike Huntley, Connie Julien, Doug Welker, Mikel Classen, Cindy Brown, Gayle Coyer, Chris Burnett and I on these issues.

**Fundraising:** UPEC treasurer, Dave Harmon, leads our efforts on this one. Board members hope to rely on other sources of revenue besides membership dues and contributions. Ideas include joint fundraising with other environmental groups in the state and making use of a donation check off similar to that used by organizations like United Way, attendance at fundraising workshops, and grant applications geared to establishing a UPEC office and part-time directorship. The UPEC endowment should be set up by the end of the year. Contact Vern Simula, John Manty, Mikel Classen, Joanne Welsh, Gayle Coyer, or Terry Trotochaud if you want to help.

During the retreat, we discussed issues that we wanted to concentrate on during 1994. It seems to me that a vision of what we want to accomplish is a necessity. Now that we've set the goals, tell us what you think. Keep your eyes and ears open. Help us on the issues that interest you. You can contact board members by phone or by writing to them. Use the Houghton UPEC box or write to Marquette board members in care of UPEC, Box 847, Marquette, Michigan 49855. Look for phone numbers on the masthead of this issue of *The Environment*.

*Your participation  
means a stronger*

*UPEC and a better  
environment for the  
Upper Peninsula of  
Michigan!*

## Environmental Community Rallies for Zero Discharge on Lake Superior!

by Joanne Welsh

"Don't tread on Gitchee Gumeel!" "U.P. for Z.D!" "What do we want? *Zero Discharge!*" "When do we want it? *Now!*" Those were the rallying cries of the fifty or more environmentalists gathered outside the University Center at NMU in advance of the DNR's public meeting on the Lakewide Area Management Plan (LaMP) in Marquette on Feb. 3. Good attendance marked the meetings on the two previous nights in Houghton and Sault St. Marie. Over a hundred citizens packed the meeting room in Marquette to hear Bob Day of the DNR explain the LaMP document and answer questions. Thanks to all who participated in the rallies.

The concept of zero discharge of persistent toxic chemicals originated with the International Joint Commission, the advisory board responsible for overseeing the waters shared by the U.S. and Canada in accordance with the Great Lakes Water Quality Agreement of 1987. At a biennial meeting, the IJC called for zero discharge in the Great Lakes Basin after recognizing that persistent toxic

The *Upper Peninsula Environmental Coalition* was organized on December 6, 1975 to combine the efforts of individuals and organizations concerned about environmental quality in the Upper Peninsula. The goals of the coalition are to protect and maintain the unique environmental quality of the Upper Peninsula of Michigan; to evaluate and promote planning and sound management decisions for all the resources of the Upper Peninsula of Michigan; to work toward these goals through coordination of member groups, individual members, and public information.

#### *Officers*

President: Jerry Smith, Champion 339-2961  
Vice President: Bill Malmsten, Ishpeming 485-5909  
Treasurer: Dave Harmon, Atlantic Mine 487-9722  
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Joanne Welsh  
Jerry Smith

Membership in UPEC is open to all individuals and organizations who wish to support the goals of the Coalition. Applications for membership should be sent to UPEC P.O. Box 34, Houghton, Mi 49931-0034. News items and submissions to *The Environment* should be sent to P.O. Box 847, Marquette, Mi 49855. *The Environment* is published six times a year. UPEC is a nonprofit organization IRS 501(c)(3). Dues and contributions are tax deductible to the extent allowed by U.S. law.

chemicals were a threat to the health of our children and our ecosystem. Lake Superior activists demanded that the governments make Lake Superior, the least damaged of the lakes, a demonstration zone for zero discharge. The governments responded with the *Binational Program to Restore and Protect Lake Superior* which committed the governments to achieve zero discharge on Lake Superior. In addition to the commitments made in the *Binational Program*, a LaMP document is required by the Great Lakes Water Quality Agreement to describe the toxic problems in the Lake Superior basin and develop a management plan that will reduce and eliminate those toxic substances.

While explaining the LaMP during the Marquette meeting, Day

insisted "It's not going to be appropriate for us to achieve zero discharge at the expense of the economics of the basin." Indeed, the LaMP report specifically says, "The governments recognize that zero discharge in the Lake Superior Basin must be compatible with a viable regional economy." To the IJC and environmentalists, a demonstration zone has always meant that we could prove zero discharge -- *no persistent toxic chemicals in the lake* -- is an attainable goal. To the governments, zero discharge appears to mean the *the least amount of toxic chemicals compatible with a viable economy*. Clearly, we have not even come to consensus on a goal.

What, by the way, is a

viable economy? The business community considers a viable economy to be one in which U.S. business will not be "encumbered" with restrictions that will put them at a competitive disadvantage. A viable economy to environmentalists, however, means something quite different--an economy that is sustainable and that does not have irreversible negative effects on the ecosystem. Recognizing this disparity, the government established the Lake Superior Forum to, "identify economic barriers to zero discharge." Let the "stakeholders," otherwise known as "interest groups," duke it out, so to speak.

The Forum is composed of representatives from both the business and environmental communities. Because environmentalists have been working toward a lake free of toxic chemicals while business leaders have kept a "viable" economy as the primary goal, the progress of the Forum has been, according to Gayle Coyer, "frustratingly slow." (Coyer, Lake Superior Activist for National Wildlife Federation, is a Forum member). At the Marquette meeting, David Keenan, executive director of Operation Action U.P., said "I hear (Day) say the economy isn't going to suffer because there isn't anything to be gained and I see Gayle agreeing with that. To reach that point where we say there are ways to work together is a big plus." Although it's been *six long years* since the IJC recommended zero discharge, we may be hearing some tentative offers of negotiation.

Negotiate? Compromise? Environmentalists balk at the notion of compromise: "Zero discharge now!" "Zero means none!" "We should stand firm. Zero discharge advocates have always believed that it is impossible to get off the ground without shooting for the moon, and rightly so! Industries see the writing on the wall and are changing production techniques before they are forced to comply by law. (For example, the Lake Superior Basin now has its first waste water treatment plant using ultraviolet light

instead of chlorine). However, there are things that can and must be done. Subtle shifts in strategy may advance the cause. Environmental groups may consider

- \*speeding the process by working with business leaders. Some have already acknowledged a willingness to "talk."

- \*providing mechanisms to recognize businesses that remove persistent toxic chemicals from their production processes.

- \*working to impose boycotts of offending companies and products. Since 8 of the 9 chemicals of concern mentioned in the LaMP are derivatives of chlorine, insistence on a chlorine ban would be a good first step.

- \*providing even more public education on the zero discharge issue.

- \*returning to networking on zero discharge with other environmental groups from the grassroots to the international level.

What can you do? First of all, educate yourself. If you do not already have the LaMP documents, send for them by contacting Bob Day, Michigan Department of Natural Resources, Surface Water Quality Division, P.O. Box 30273, Lansing Michigan 48909 (phone: 517 335-3314). There will be a ninety day comment period on the documents ending May 1, 1994. Send your comments to Ms. Jeanette Collins, U.S. Environmental Protection Agency-Region V (WQ-16J), 77 West Jackson, Chicago, Illinois 60604.

If there is one single thing you can do to help protect Lake Superior, sending comments on the LaMP to the E.P.A. is it! Ask E.P.A. to

- \*expand the list of 9 chemicals to include all known persistent toxic chemicals.

- \*impose *reverse onus* so that chemicals will be proven safe before they are allowed to enter the environment rather than banning them only after their detrimental effects become known.

- \*include air emissions data

from point sources (direct discharges) within the Lake Superior Basin as soon as possible.

- \*insist that the governments of Canada and the U.S. pass Circle of Poison legislation so that persistent toxic chemicals are not produced by our countries outside our borders.

- \*insist that the governments work with other nations to ban persistent toxic chemicals worldwide and thus protect Lake Superior from further air contamination.

## Sylvania Motorboat Proponents Lose Lawsuit

by William Malmsten

Motorboat proponents, Kathy Stupak-Thrall and Michael Gajewski, have lost the federal lawsuits they had filed against the U.S. Forest Service. Their suits sought to overturn Amendment No. 1 to the Ottawa National Forest Management Plan which provides general management regulations for the Sylvania Wilderness but excludes the issue of motorboat use. Because the suits were so similar, they were treated as one suit by the court. The restrictions to which the plaintiffs objected include regulations prohibiting the use of houseboats and sailboats and discouraging the use of electronic fish finders, boom boxes, and other mechanical or battery operated devices. We assume that their motive for filing suit was to set legal precedents that would prevent the Forest Service from issuing regulations to restrict or eliminate the use of motorboats in the Sylvania Wilderness. Among other things, the lawsuit claims that the Forest Service lacks legal authority to regulate watercraft on the basis that control of surface waters has been reserved for the State of Michigan.

UPEC filed a seventy-five

page *amicus curiae* brief in the suit. Although it was relatively unlikely that the suits would be successful, we felt that it was essential to do whatever we could to influence the outcome because a loss on this issue would have been a disaster. If the court had ruled in favor of the motorboat proponents, not only would the integrity of the Sylvania Wilderness have been lost, the entire federal wilderness preservation system would have been compromised. If the court had failed to recognize the supremacy of federal law over state law in regard to federal land management, members of the "wise use" movement might have used the precedent to overturn regulations on other wilderness areas in Michigan and in other states.

We had some difficulty finding an attorney who had both the expertise to represent us and the willingness to do so on a reduced fee basis. After consulting with two Michigan attorneys, we were successful in persuading Walter Kuhlmann of Madison, Wisconsin to represent us. Kuhlmann has represented the Sierra Club in numerous matters involving National Forests in Wisconsin. He is considered by many environmentalists to be among the country's top attorneys in dealing with environmental law. We are extremely grateful for his representation.

Our 75-page brief was filed on Jan. 7, in U.S. District Court. On Jan. 12, oral arguments were presented in Grand Rapids before Federal Judge Gordon J. Quist. The motorboat proponents were represented by William Pendley and John Nelson of the Mountain States Legal Foundation in Denver, Colorado. Judge Quist indicated that he would accept UPEC's brief for consideration. Judge Quist's order denying the suits was signed on Jan. 25 and was accompanied by an 18-page opinion statement summarized as follows:

Although the plaintiffs have riparian rights, those rights are not

absolute. The Forest Service has the right to regulate those riparian rights in order to accomplish the Congressional mandate which, in this case, is to manage the Sylvania Wilderness in a manner consistent with that mandate and with directives for wilderness areas. The riparian rights of the plaintiffs arise from their ownership of land on the north shore of Crooked Lake. Ninety-five percent of the shoreline is owned by the federal government. Crooked Lake is made up of a series of bays connected by narrow channels. The bay on which the property of the plaintiffs is located lies outside the wilderness boundary and therefore would not be affected by the wilderness regulations.

Judge Quist states: "In considering the proposed restrictions on use in relation to the consequential effects on the rights and interests of plaintiffs and the State, I note that the restrictions will not prevent plaintiffs from using the whole surface of Crooked Lake but will impose slight restrictions on that use. In contrast, the restrictions will further State interests in conservation and will have a substantial positive effect on furthering the purpose of Congress in creating the Sylvania Wilderness.

Implementation of the Forest Service Plan will permit the Forest Service to administer the Sylvania Wilderness in accordance with the direction of Congress, which determined that the elimination of mechanical transport and motorized devices was critical to the creation and maintenance of wilderness areas."

We believe that Judge Quist's recognition of the intent of Congress to eliminate mechanical transport and motorized devices from wilderness areas is very significant. It will provide important direction to the Forest Service in formulating a decision to regulate motorboats in the Sylvania Wilderness.

In addition to challenging the Forest Service's authority to regulate watercraft, the lawsuits on Amendment No. 1 claims that the plaintiffs have a right to

compensation due to a "taking" of their property rights. Judge Quist separated this issue from the question of authority to regulate. The taking issue remains unresolved. It is our assumption that the plaintiffs would be required to document a significant loss in property value in order to establish their claim of a taking. We understand that some evidence exists to indicate that the property value has risen as a result of wilderness designation. The elimination of motorboats from the wilderness may actually increase the value of the property by enhancing the uniqueness and appeal of Crooked Lake. We will keep you informed as we learn more about the taking issue.

Much remains to be done before the Sylvania motorboat issue is resolved. In a Nov. 18, 1993 letter to UPEC, David Morton, the Forest Supervisor of the Ottawa National Forest, indicated that "it is our intent to wait until the lawsuits are decided before we proceed to issue a decision regarding motorboat use within the Sylvania Wilderness." We therefore presume that the process of selecting a motorboat use management plan will continue now that Judge Quist's decision has been released. When the motorboat use decision is finally released, it will be possible to appeal it both through Forest Service administrative appeals and through Federal Court Appeals. Judge Quist's decision could be appealed to a higher court. Because the plaintiffs are associated with the Blue Ribbon Coalition, we suspect that they will have ample funding available for continuing suits. Considering the history of this issue, additional court action is very likely.

UPEC is continuing to solicit tax deductible donations to the Sylvania Defense Fund to help cover our legal expenses on this issue. If you wish more information, or if you wish to make a donation to the Sylvania Defense Fund, please write to the following address: Upper Peninsula Environmental

Coalition, Sylvania Project, P.O. Box 304, Ishpeming, Michigan 49849.

## My Impressions of the Great Lakes Mining Impacts Conference

by Doug Welker

Several UPEC members attended the Mineral Policy Center's *Great Lakes Mining Impacts Conference* on 4-5 December in Ashland, Wisconsin. The Mineral Policy Center is a non-profit "resource group" in Washington, D.C. MPC provides assistance to grass roots organizations and encourages reforms in mining laws while working to reduce the detrimental effects of 1). the exploration and extraction of gas and oil, and, 2). hardrock mining of minerals. UPEC and member group FOLK were among the twenty-four organizations that sponsored the meeting.

The strong support shown to John Manty and Bud and Janet Avery in their SLAPP suit (Strategic Lawsuit Against Public Participation) battle with Great Lakes Minerals should be gratifying to local activists. Some of the 150 attendees suggested ideas for legal representation. All became aware that this case may be precedent setting.

Of regional importance was the establishment of the WATER campaign which aims to alert citizens of WI., MN, and the U.P. to the dangers of sulphide metallic mining. WATER is *not* an acronym. It is an appropriate name, however, because the most serious impacts of mining are usually those affecting water quality and aquatic ecosystems, and because water is arguably our most important "mineral."

Northern Wisconsin, the region where most mineral exploration is going on and where most of the metallic sulphide mineral deposits of current economic value are known to exist, will probably be the focus of WATER's activities for the present. As metal prices rise in

the future, new mines could be proposed for the Keweenaw Peninsula. WATER is helpful in coordinating efforts among grassroots environmental groups and Native Americans when the threat of a mine arises as well as in giving them a forum for sharing past experiences. To become aware of WATER activities or to become involved with one of their task forces, write WATER, 124 River Street, Springbrook, WI. 54875.

Achieving consensus on mining however, may be impossible. There appears to be a strong "No More Mining!" voice in the Native American community and in some grassroots activist circles. Since metals mining is a non-sustainable activity causing significant environmental degradation, this stance seems reasonable. However, I believe it requires the adoption of a lifestyle involving only environmentally benign, perhaps "traditional" means--no more new cars unless they are made of reused or recycled metals--no more telephones unless none of the wires and switches are produced by new mining. No one at the conference promised such a commitment.

An alternative might state, "Metals mining (specifically sulphide metallic mining) might be O.K. somewhere, but not in the Great Lakes." NIMBYism (Not In My Backyard) has always bothered me. If a metal mine is not developed locally, there will either be more mining at an existing mine or a new mine will open somewhere else. New mines might then be developed where environmental laws are more lax or where environmental and human effects would be even more damaging than here. All the arguments I heard at this conference for not having metal mining here could just as well apply to many other areas.

The only other reasonable alternative is to demand "If a new mine is going to be opened, it had better be done right!" "Done right" means more than meeting DNR or EPA standards or the standards of local community and business leaders. It means meeting *our*

standards, realistic standards achieved by consensus building among those concerned about new mines (no pro-mining folks allowed). Technical assistance should be sought. These standards could include requirements for public participation; bonding for cleanup costs; public access to lands and waters to take samples for potential contamination; impacts on ground water, ecosystems, and recreation; financial compensation for affected communities; respect for Native American treaty rights; and a whole host of other things. These standards would be very *specific*. The Mineral Policy Center has developed *Guidelines for a Good Mine* (I would have put "Good" in quotes). These guidelines could provide a start, but would need to be greatly expanded.

Adopting this alternative would have two major advantages: 1). It might be the only one to bring about consensus and cohesiveness among anti-mining activists. 2). It would characterize us as proactive rather than reactive, positive rather than negative in our actions. In addition, it might be something we could convince mainstream environmental groups to sign onto, as well as groups like Ducks Unlimited, local sportsmen's clubs, and our more enlightened public officials. Some of these groups could be involved in drafting the standards. The adoption of such standards is not without risk, however. Weak standards could splinter us or accomplish nothing. If too strong, only the more extreme anti-mining opponents would sign onto them. They would have to be thoroughly researched and thought out in order to stand up in arguments on technical grounds. Further, their existence could dampen the fire in those who are most effective by being outspoken and radical in their actions. My impression from the conference, though, is that it is unlikely that adoption of standards could result in less of a consensus than we have now.

## Tip of The Issue: What to do With Those Used Printer Cartridges

by Joanne Welsh

I hadn't had my laser printer for very long, before I began to wonder what to do with the cartridge when it quits working. Since I knew cartridges could be recycled, I was happy to learn through the grapevine that Superior Business Machines in Escanaba is not only collecting them for recycling, but remanufacturing them as well. According to owner Mike Marenger, the remade cartridges last up to 30% longer than new ones, and are also considerably cheaper. The company replaces the nylon in printer ribbons, and redoes ink jet cartridges for about half the price of new ones. They also pick up and deliver all over the U.P.! If you want more information, call Mike at (906) 786-1888.

Saving money is nice, but the best feature of this business is that it is contributing to a sustainable economy. Marenger says that, "So far in the past 10 months, we have saved 11,540 pounds of plastic from the landfill." *The Environment* is pleased to recognize businesses that contribute to a sustainable economy. If you would like to pass along information about other businesses, write to us at P.O. Box 847, Marquette, Mi. 49855.

## Mini Review: A Guide to Paper

*Recycled Papers: The Essential Guide* by Claudia Thompson (Cambridge, Mass., MIT Press, 1992) is likely the book to have if you're interested in learning everything about paper recycling, the history of paper making, establishing standards for paper, etc. One surprise is that the use of wood in producing paper is quite recent, and

that in the past other materials such as rags were saved for the purpose. There is no lignin to remove in rags, and thus the environment is not subjected to toxic chemicals in the bleaching process. Further, the use of virgin materials such as wood has resulted in a poorer quality paper than that made with materials like cotton. Since the book is expensive—\$40. for the hardback and \$25. for paperback—it may be a good idea for UPEC to buy a copy for its library.

## Upcoming Events

### CUP Sierra Club Meetings

Mar 8 General membership meeting at Peter White Library. 7pm. 1994 conservation priorities will be discussed. Marv Roberson, Houghton Sierra Club member, will present facts and discuss the issues driving the forest policy amendment.

Mar 24 Conservation Meeting at Dave and Judy Allen's home, 318 E. Prospect Marquette. 7pm.

Apr 5 General membership meeting at Peter White 7pm. John Bruggink, assistant professor of biology at NMU will discuss his research on the nesting behavior of Canada Geese on the Hudson Bay.

Apr 23 Service outing to Little Presque Isle, as part of the Earth Day weekend activities. Pick up litter and open trails. Contact John Rebers at 228-3617.

Apr. 23 Backpackers Cooking Workshop (weather permitting), as part of the Earth Day weekend activities, from 5 to 8 PM. A hands-on workshop preparing nutritious, lightweight, and inexpensive meals. Several types of stoves will be used. Dinner included in \$2.50 fee. Register by 4/15. Contact Dave Bos at 228-6744.

### UPEC Meetings

Mar 10 Board meeting at Houghton Methodist Church near the

campus of MTU. 6pm.

Apr. 14 Board meeting at Ely Township hall west of Ishpeming. 6pm. All interested persons invited to attend.

The committee of persons interested in zero discharge and Lake Superior issues meets at least monthly. If interested in participating in some upcoming activities, contact one of the persons mentioned on the front page of the newsletter.

**Upper Peninsula Environmental Coalition**  
P.O. Box 34  
Houghton, Mi 49931

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### In This Issue...

**Lakewide Management Plan for  
Lake Superior Comes Under Fire**

**Judge Rules Against Putt-Putts in  
Sylvania Wilderness**

**Midwest Mining Conference  
Thoughts**

