



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
UPPER PENINSULA DISTRICT OFFICE



C. HEIDI GREYER  
DIRECTOR

April 20, 2017

VN No. 007132

Mr. Carlos Bertoni  
Executive Vice President  
Project Development  
Highland Copper Company, Inc.  
1111 St. Charles Street West  
West Tower, Suit 101  
Longueuil, QC J4K 5G4

Dear Mr. Bertoni:

**SUBJECT:** Violation Notice and Order to Restore  
Complaint Submission Number: 2QK-DYJK-BX1T  
Site Name: 27- Gogebic County- Wakefield Township- Highland  
Property Location: Gogebic County, T50N, R45W, Section 32 and T49N, R45W,  
Section 5

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), conducted inspections on April 4, 5 and 6, 2017, at the above referenced parcel of property. The purpose of the inspections was to evaluate the property for compliance with Part 31, Water Resources Protection, Part 91, Soil Erosion and Sedimentation Control (SESC), and Part 303, Wetland Protection; of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the administrative rules for Parts 31, 91 and 303. At the time of the inspections, WRD staff observed uncontrolled erosion and sedimentation, access roads that had been developed and/or used and exploratory drilling activities. These activities are all regulated under the authority of Parts 31, 91 and 303. This violation notice and order to restore is being sent because Highland Copper has been identified as the party responsible for the unauthorized activities.

In accordance with the terms of Part 31, Section 3109(1): a person shall not discharge anything that is or may become injurious to waters of the state. Upon inspection of the activity, it was determined that sediment from uncontrolled erosion was discharging into a tributary of Gypsy Creek; resulting in a violation of this part.

In accordance with the terms of Rule 2190 of Part 31, Michigan's Permit-By-Rule for Construction Activities: an authorization (1-4.9 acres) or permit (5+ acres) is required for an earth disturbance that is greater than or equal to 1 acre, and, that has a point-source discharge of storm water to a surface water of the state. A review of County SESC and WRD files indicates that an authorization was not granted, and, a permit was not applied for prior to this activity; resulting in a violation of this part.

In accordance with the terms of Rule 1704(1) of Part 91, SESC: a permit must be obtained prior to the commencement of an earth change which disturbs 1 or more acres of land, or, which is within 500 feet of the water's edge of a lake or stream. The permitting agent for Part 91, SESC, is the Gogebic Conservation District; and, a review of their files indicates that a permit was not applied for prior to this activity; resulting in a violation of this part.

In accordance with the terms of Rule 1702(1) of Part 91, SESC: an earth change shall be conducted in a manner that will effectively reduce accelerated soil erosion and resulting sedimentation. Inspection of the earth change indicated that erosion and resulting sedimentation was uncontrolled, and was discharging sediment to a tributary of Gypsy Creek; resulting in a violation of this part.

In accordance with the terms of Section 30304 of Part 303: the construction of temporary access through wetlands for the purpose of conducting exploratory drilling and the actual exploratory drilling in wetlands without first obtaining a permit from the DEQ is prohibited. A review of WRD files indicates that no permits have been issued for this activity at the property. Therefore, it appears that this activity was conducted in violation of this part.

In consideration of the requirements of Part 303, the WRD has determined that a permit would not have been approved for this project in the manner in which it was undertaken. No efforts were taken in some instances to avoid and/or minimize impacts to the wetlands. Specifically, no timber matting was used in wetlands along the snowmobile trail that runs parallel to Co Rd. 519. In addition, matting was also not used at all of the drill sites that were located in wetlands. Finally, at least the most recently completed access and drilling did not occur under frozen conditions or during the dry time of year, either of which would have resulted in minimal to no impact to the wetlands.

**Therefore, Highland must bring the property into compliance with the requirements of Parts 31, 91 and 303. To comply with these Parts, Highland must complete the following actions:**

1. Install and maintain intermediate/emergency soil erosion and sedimentation control measures until a final SESC plan is established. Specific areas of concern within the project were discussed with company personnel on-site during the April 6, 2017, inspection.
2. Provide the total amount of earth disturbance by May 15, 2017 so that DEQ can determine whether Highland needs an authorization or a permit under Part 2190 of Part 31 (Construction Storm Water). By July 1, 2017, obtain the appropriate authorization for the discharge of construction stormwater required by Rule 2190 of Part 31.
3. Apply for a Part 91 SESC permit from Mr. Jim Finley (906-663-4512) at the Gogebic Conservation District by May 15, 2017. Coleman Engineering was on-site collecting information to develop a SESC plan for this permit during our inspection.
4. Once a Part 91, SESC permit is issued by Gogebic County, fully implement the approved SESC plan to stabilize the site by July 1, 2017.
5. By May 15<sup>th</sup>, 2017, Highland Copper shall submit to DEQ Water Resources Division a plan to restore the wetlands impacted by Highland's activities. This plan shall address actions proposed to correct rutting, stabilization of exposed soil, removal of any excess soil that may have eroded into wetlands, and what actions will be taken to avoid introduction of invasive species during the restoration efforts.

Highland is also required to apply for an after the fact Part 303 permit for the drill holes that were completed in wetlands. All drill sites utilized over the past year, whether on State, County or private land must be evaluated to determine if they were completed in wetlands and if so,



included in the application. In addition, it is DEQ's understanding that at least some drill sites will need to be revisited in order to complete the removal of piping and/or plugging of the holes. Access to those sites through wetlands will also require a permit so detailed drawings and methods of access must be included in your application.

Please contact this office immediately upon completion of the above restoration requirements in order that a WRD inspection can be conducted. Failure to comply with the restoration requirements or undertaking any additional unauthorized activity may result in this case being referred for elevated enforcement action.

If you have any factual information you would like to share with us regarding the violations identified in this Violation Notice, please provide them with a written response.

Compliance with the terms of this Violation Notice does not relieve Highland of any liability, past or present, from the failure to comply with Parts 31, 91 and 303 of the NREPA.

The WRD reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future. This may include civil action seeking fines, enforcement costs, injunctive relief, and potential criminal prosecution.

Due to the severity of the noncompliance, the matter is being evaluated for escalated enforcement.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice or if you would like to arrange a meeting to discuss it, please contact either of us at the numbers shown or the address listed.

Sincerely,



James Caron  
DEQ WRD  
906-875-2071



Lindsey Ringuette  
DEQ WRD  
906-228-4806

cc: Mr. Jim Finley, Gogebic County Part 91 Agent  
Mr. Darren Pionk, Gogebic County Road Commission  
Mr. Mike Porter, Vice President of Operations, Idea Drilling  
Mr. Steve Casey, DEQ  
Ms. Ginny Pennala, DEQ