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Grand Portage Band of Lake Superior Chippewa
RESERVATION TRIBAL COUNCIL
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July 30, 2026

Commissioner Sarah Strommen
Minnesota Department of Natural Resources
500 Lafayette Road North
St. Paul, MN 55155

Sent also by electronic mail

Re: Formal Request for Government-to-Government Consultation and Objection to Lack of Tribal Notification Regarding Mining-Related Actions in the 1854 Ceded Territory, Including the Mile Post 7 (Northshore Mining) EAW and the NorthMet / NewRange Supplemental EIS Determination

Dear Commissioner Strommen:

On behalf of the Grand Portage Band of Lake Superior Chippewa (Band), one of Minnesota's 11 federally recognized Indian tribes, I write for two related purposes. First, the Band objects to the Minnesota Department of Natural Resources' (DNR) failure to provide the Band with the tribal notification and government-to-government consultation that Minnesota law and the DNR's own longstanding practice require before the Department acts on matters affecting the 1854 Ceded Territory. Second, I write to request formal government-to-government consultation on a series of mining-related actions the DNR has taken or is about to take within the 1854 Ceded Territory. The DNR should have offered consultation and coordination to the Band before the DNR placed these before the general public.

In roughly the past two weeks, the Band has learned, largely through mass public-distribution notices rather than direct government-to-government contact, several state agency actions affecting mining and mining-related activities in the 1854 Ceded Territory. At the DNR, these include:

- The Department's July 28, 2026 publication of an Environmental Assessment Worksheet (EAW) for the Mile Post 7 West Ridge Railroad Relocation, Dam Progressions, and Stream Mitigation Project in Lake County, proposed by Northshore Mining Company (a Cleveland-Cliffs company), with a public-comment deadline of August 27, 2026;

- The Department's July 29, 2026 announcement that it has received notice from NewRange Copper Nickel LLC of proposed changes to the NorthMet Project near Hoyt Lakes in St. Louis County, and that it will determine whether a Supplemental Environmental Impact Statement (SEIS) is required.

In the same short window, and as addressed in separate correspondence with other agencies, the Band has also seen Clean Water Act Section 404 permit notices and associated Section 401 water-

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quality certifications for the U.S. Steel Minntac and Keetac operations for projects that will require modifications to the permit to mine and water appropriations permits issued by the DNR.

Each of these actions lies within the 1854 Ceded Territory. On none of them did the DNR (or, as to the federal permits, the State) provide the Band the pre-notice, government-to-government consultation that has been the practice for decades.

I. The actions at issue are within the 1854 Ceded Territory, where the Band retains federally protected hunting, fishing, and gathering rights and serves as a co-manager of natural resources.

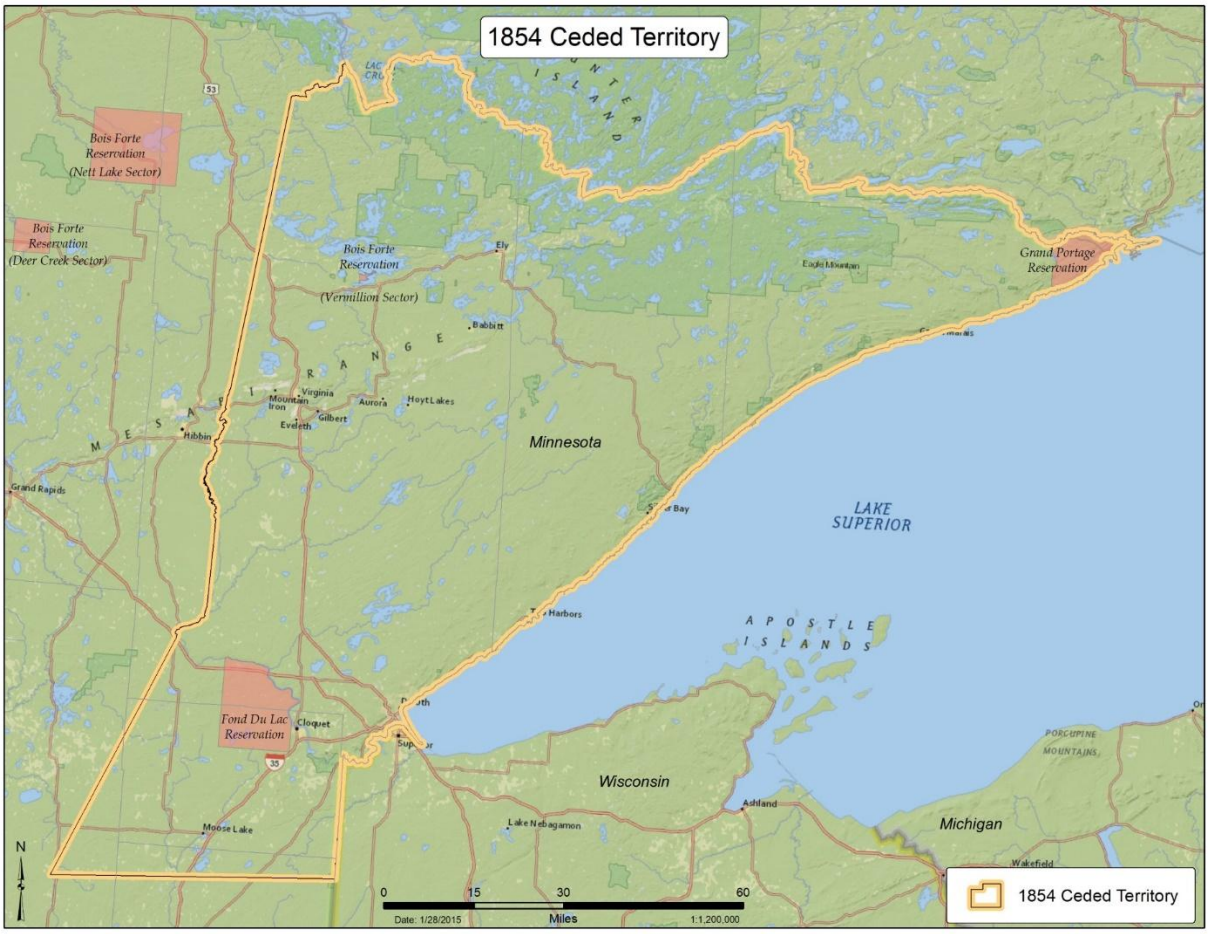
The Mile Post 7 tailings basin in Lake County, the NorthMet Project near Hoyt Lakes in St. Louis County, and the U.S. Steel Minntac and Keetac operations on the Iron Range are all located within the territory ceded by the Chippewa to the United States under the Treaty of September 30, 1854, 10 Stat. 1109, known as the 1854 Ceded Territory. As a signatory to the 1854 Treaty of LaPointe[1] where Grand Portage and other bands ceded more than six million acres to the United States (the "1854 Ceded Territory"), Grand Portage retains usufructuary rights that extend throughout the entire northeast portion of the state of Minnesota. The 1854 Treaty was not a grant of rights *to* the Ojibwe, but a grant of rights *from* the Ojibwe to non-Indians.[2] In the Ceded Territory, Tribes serve as co-managers and stewards of those lands and have a legal interest in protecting natural resources.[3]

[1] Treaty with the Chippewa, Sept. 30, 1854, 10 Stat. 1109.

[2] *See*, *e.g.*, *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 184 (1999) (noting "the 1854 Treaty established new hunting and fishing rights in the territory ceded by the Treaty"); *Fond du Lac v. Carlson*, Civ. No. 5-92-159 (D.Minn. March 18, 1996) (unpubl. op.) (holding that Fond du Lac retains usufructuary rights in the 1854 Ceded Territory); *Grand Portage Band of Chippewas, et al. v. State of Minnesota, et al*., Civ. No. 4-85-1090 (settling suit to enforce 1854 Treaty as to Grand Portage and Bois Forte Bands against state as reflected in Minn. Stat. § 97A.157); *United States v. Bresette*, 761 F. Supp. 658, 661 (D. Minn. 1991) (citing *Lac Courte Oreilles Band of Lake Superior Chippewa Indians v. Voigt,* 700 F.2d 341, 348 (7th Cir.1983)) (noting "Seventh Circuit has interpreted the 1837, 1842, and the 1854 treaties as reserving full usufructuary rights for the Chippewa on the ceded territories.").

[3] *Id.*

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The DNR is well acquainted with these rights and with the Band's role. The Department's own materials recognize that the Fond du Lac, Grand Portage, and Bois Forte Bands reside in and retain harvest rights throughout the 1854 Ceded Territory, that the Grand Portage Band secured recognition of those rights through litigation against the State, and that the Band and the State "consult and cooperate on matters related to the Band's exercise of the Treaty right."[4] The Band's rights depend upon the continued health and availability of waters, wetlands, fish, wildlife, wild rice (manoomin), plants, habitat, and other natural resources, which are precisely the resources that tailings-basin expansions, dam progressions, stream realignments, dewatering and water appropriations, and large-scale mine development place at risk. The Band therefore has substantial governmental, treaty, cultural, and natural-resource interests in each of the actions identified above.

[4]See Minnesota DNR, Legal History (1854 Ceded Territory), https://www.dnr.state.mn.us/aboutdnr/laws_treaties/1854/litigation.html (recognizing that the Fond du Lac, Grand Portage, and Bois Forte Bands reside in and retain harvest rights in the 1854 Ceded Territory, that the Grand Portage Band secured recognition of those rights through litigation against the State, and that "the Band and the State also consult and cooperate on matters related to the Band's exercise of the Treaty right"); see also Minn. Stat. § 97A.157 (cooperative management of the 1854 Ceded Territory).

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II. The DNR has affirmative tribal notification and consultation obligations under Minnesota law and its own policy and practice that require pre-public-notice engagement and that were not met here.

Minnesota Statutes section 10.65 directs the DNR to engage in "timely and meaningful consultation" with Minnesota Tribal governments on matters that have Tribal implications. The statute defines consultation as "the direct and interactive involvement of the Minnesota Tribal governments in the development of policy on matters that have Tribal implications," describes it as a "proactive, affirmative process," and places the burden on the agency (not the Tribe) to show that it has made a good faith effort to elicit feedback through formal engagement between top agency officials and the Tribe's governing body.[5] The DNR implements section 10.65 by, among other things, consulting and collaborating with Tribal governments and maintaining policies to guide that engagement.[6]

These obligations are not satisfied by placing a project on the Environmental Quality Board's EAW distribution list, or by mailing a Tribe the same public notice that is sent to the general public. For decades, the DNR and its sister agencies have understood that the Bands of the 1854 Ceded Territory are co-managing governments, not merely members of the interested public, and that mining-related matters in the Ceded Territory call for direct, government-to-government notification and coordination before the public comment process begins so that the Bands can obtain and review project materials, coordinate with the DNR, the Minnesota Pollution Control Agency (MPCA), and one another, and engage on a government-to-government basis in advance of the general public process. Pre-public-notice tribal notification is what distinguishes government-to-government consultation from ordinary public comment. That is the established practice which the DNR did not follow for the actions described in this letter.

III. The Band is concerned about a pattern of DNR non-notification of the Grand Portage Band on recent projects.

Beyond the two DNR matters, the Band is concerned about the broader pattern. The Minntac and Keetac expansions now proceeding through the federal Section 404 process, like the Mile Post 7 and NorthMet projects, will require approvals squarely within the DNR's authority. At a minimum, amendments may be required to each operation's permit to mine under Minnesota Statutes section 93.481, and new or amended water appropriation permits under Minnesota Statutes section

[5]Minn. Stat. § 10.65, subd. 2(2). The statute further provides that "[t]his definition adds to statutorily mandated notification procedures," that "[d]uring a consultation, the burden is on the agency to show that it has made a good faith effort to elicit feedback," and that "[f]ormal meetings or communication between top agency officials and the governing body of a Minnesota Tribal government is a necessary element of consultation."

[6]See Minnesota DNR, Tribal Relations, https://www.dnr.state.mn.us/aboutdnr/tribal-relations.html (stating that the DNR implements Minn. Stat. § 10.65 by "[c]onsulting and collaborating with Tribal governments" and "[i]mplementing policies to guide DNR staff in their interactions with Tribal governments").

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103G.271 (and, for mining-related dewatering and diversion, section 103G.297).[7] Each of these approvals, and the environmental review that accompanies them, has the potential to affect the Band's treaty-protected resources, and each therefore calls for government-to-government consultation with the Band before the DNR acts. The Band has not received notice of, or an invitation to consult on, these forthcoming matters.

IV. The Band requests initiation of government-to-government consultation, an extension of the Mile Post 7 comment period, consultation before the NorthMet SEIS determination, and a durable commitment to pre-public-notice notification going forward.

The Band respectfully requests that the DNR:

i. **Promptly initiate formal government-to-government consultation with the Band** regarding the Mile Post 7 EAW, the NorthMet / NewRange SEIS determination, and the permit-to-mine and water-appropriation approvals identified above. Consultation should occur with the Commissioner or another DNR official possessing sufficient decision-making authority to address the Band's concerns and influence the Department's decisions.

ii. **Extend the Mile Post 7 EAW public-comment deadline, currently set for August 27, 2026, and hold it open until at least 30 days after the DNR has completed meaningful government-to-government consultation with the Band and responded to the Band's concerns.** The Band should not be required to complete its technical review within a comment period that was already underway before the Band received any direct notice of it.

iii. **Refrain from issuing its SEIS-need determination for the NorthMet Project until the DNR has consulted with the Band**, and provide the Band a meaningful opportunity to consult on the scope of any Supplemental EIS the Department determines is required, as well as on any determination that an SEIS is not required.

iv. **Refrain from acting on any permit to mine, permit-to-mine amendment, water appropriation permit, dam safety approval, or related authorization** for the Minntac, Keetac, Mile Post 7, or NorthMet operations, and from issuing any EAW, EIS, or environmental-review need determination for those operations, until the DNR has completed meaningful consultation with the Band and has considered and responded to the concerns the Band raises.

v. **Provide the Band with the application materials, environmental review documents, and supporting information** in the DNR's possession for each of these matters, including the current Mile Post 7 EAW and its appendices and the NewRange submittal describing the proposed NorthMet changes.

[7] See Minn. Stat. § 93.481 (permit to mine required; amendment and assignment); Minn. R. chs. 6130, 6132 (mineland reclamation); Minn. Stat. § 103G.271 (appropriation and use of waters), § 103G.297 (diverting or draining water for mining); Minn. R. ch. 6115 (water appropriation and use permits).

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vi. **Commit in writing to providing the Band direct, government-to-government notification and an opportunity to consult before any public comment period opens on all mining-related environmental review and approvals in the 1854 Ceded Territory,** including permit-to-mine actions under section 93.481, water appropriation actions under chapter 103G, dam safety and tailings-basin approvals, and EAW, EIS, and SEIS need determinations under the Minnesota Environmental Policy Act and Minnesota Rules chapter 4410. This is the coordination the Band has come to expect over decades of co-management, and the Band asks the Department to reaffirm and adhere to it.

The Band expects the DNR to fulfill its obligations under Minnesota Statutes section 10.65, Executive Order 19-24, and its own consultation policies and practice, and to ensure that Grand Portage has a meaningful opportunity to participate before decisions are made that could affect the Band's treaty-reserved rights and the natural resources upon which those rights depend.

Please contact my office to schedule consultation at the earliest opportunity.

Sincerely,

Robert Deschampe
Robert Deschampe
Chairman

cc: Grand Portage Reservation Tribal Council
Chairman Carlos Hernandez, Bois Forte Band of Chippewa
Chairman Bruce Savage, Fond du Lac Band of Lake Superior Chippewa
Barb Naramore, Deputy Commissioner, MN DNR
Joe Henderson, Director, Lands and Minerals Division, MN DNR
Becky Horton, EAW Project Manager, MN DNR
Leroy LaPlante, Tribal Relations Director, MN DNR
James Clark, Tribal Liaison, MN DNR
Katrina Kessler, Commissioner, Minnesota Pollution Control Agency
Shannon Kesner, Tribal Liaison, MPCA
Anne Vogel, Region 5 Administrator, U.S. Environmental Protection Agency
Sonny Myers, Executive Director, 1854 Treaty Authority
Adam Savariego, Office of the Governor and Lt. Governor