



Bois Forte

TRIBAL GOVERNMENT

September 14, 2026

Tamarack EAW Project Manager *Transmittal via Minnesota Public Comment Form Portal*
Environmental Review Unit
Minnesota Department of Natural Resources
500 Lafayette Road
Saint Paul, MN 55155

RE: Comments of the Bois Forte Band of Chippewa on the Tamarack Mining Project Scoping Environmental Assessment Worksheet and Draft Scoping Decision Document (July 7, 2026)

Dear Tamarack EAW Manager:

The Bois Forte Band of Chippewa (“Bois Forte Band” or “Band”) is a federally recognized tribal nation. The Band submits these comments on the Tamarack Mining Project Scoping Environmental Assessment Worksheet (“SEAW”) and Draft Scoping Decision Document (“DSDD”), both dated July 7, 2026, to protect its treaty-reserved rights and to ensure that the environmental review of the proposed Tamarack Mining Project (“Project”) is thorough, accurate, and legally adequate.

On September 30, 1854, the Bois Forte Band, together with the Grand Portage and Fond du Lac Bands of Chippewa, entered into the Treaty of La Pointe with the United States (the “1854 Treaty,” 10 Stat. 1109). Under the 1854 Treaty, the Bands ceded ownership of approximately 6.2 million acres of land in present-day northeastern Minnesota (the “Ceded Territory”) and reserved, among other things, the right of the Bands and their members to hunt, fish, and gather within the Ceded Territory for their livelihood in perpetuity. See 1854 Treaty, Art. 11; *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 184 (1999). The reservation of these inherent usufructuary rights reflected the vital importance of subsistence hunting, fishing, trapping, and gathering to the Bands and their people—activities that remain central to the cultural identity, spiritual practices, and economic well-being of the Bois Forte Band and its members to this day.

Despite the perpetual nature of these rights, the Band’s ability to exercise them has been progressively diminished. Approximately eighty percent of the lands the Bands originally ceded are no longer part of the federal estate or have been closed to motorized access. Only about nineteen percent of the original 6.2 million acres of Ceded Territory remain accessible to Band members and in federal ownership. At the same time, there is substantial and growing evidence of continuing negative impacts on treaty resources within the Ceded Territory due to pollution,

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climate change, and other human factors. These impacts include fish consumption advisories that restrict the Band's ability to rely on fish as a traditional food source, declining moose populations, and persistent downward trends in manoomin (wild rice) biomass—a resource of paramount cultural and nutritional significance to the Ojibwe people.

The proposed Tamarack Mining Project area is adjacent to the Ceded Territory and has the potential to further impact the natural resources upon which the Band's treaty-reserved rights depend. The Band therefore has a direct, substantial, and legally protected interest in the adequacy of the environmental review for this Project. The Band submits these comments to ensure that the SEAW and DSDD fully and accurately account for the Project's potential impacts on treaty resources and that the resulting Environmental Impact Statement ("EIS") provides the rigorous analysis that the law requires.

Areas of Concern

The Bois Forte Band has reviewed the comments submitted by the Mille Lacs Band of Ojibwe, dated September 9, 2026, regarding the SEAW and DSDD (the "Mille Lacs Band Comments"). The Bois Forte Band joins in and expresses its agreement with the areas of concern set forth in Part I of the Mille Lacs Band Comments. The twenty-six categories of unresolved concern identified therein are shared concerns of the Bois Forte Band, and the Band incorporates them by reference as if fully set forth herein. The Band further summarizes these shared concerns below to underscore their significance to the Bois Forte Band's treaty-reserved rights and resources.

- A. The "Permitting Issue" Deferral.** Nine comments concerning financial assurance, reclamation success criteria, post-closure monitoring, operational air monitoring, long-term costs, the absence of any provision for determining a conductivity standard, and the treatment of the wild rice sulfate standard as a discharge design target rather than a water quality standard remain unresolved. The deferral of these matters to the permitting phase effectively removes them from the comparative alternatives analysis that the EIS is required to provide, depriving the Band and the public of a meaningful opportunity to evaluate the Project's true costs and risks during scoping.
- B. Refusal to Conduct a Health Impact Assessment.** The DSDD expressly declines to conduct a Health Impact Assessment ("HIA") while simultaneously describing a screening-and-assessment methodology that is, in substance, an HIA by another name. Prior comments addressing Tribal health determinants and subsistence exposure scenarios—matters of direct relevance to the Bois Forte Band's members who harvest within the Ceded Territory—remain unaddressed. The Band is concerned that the refusal to conduct a formal HIA will result in an incomplete assessment of the Project's effects on human health, particularly the health of Tribal members who depend on subsistence resources.

- C. **Ecosystem Services.** Multiple commenting parties requested that the EIS evaluate ecosystem services. The DSDD not only declines to do so but has broadened the scope of the exclusion beyond what the Responsible Governmental Unit (“RGU”) previously justified. The Ceded Territory’s ecosystems provide essential services—including water filtration, carbon sequestration, and the sustenance of fish, wildlife, and plant communities—that directly support the Band’s treaty-reserved harvesting rights. The failure to evaluate these services leaves a significant gap in the environmental analysis.
- D. **Environmental Justice and Cumulative Tribal Burden.** The environmental justice analysis in the scoping documents remains qualitative, is tethered to a single screening tool that does not capture off-reservation harvesters such as Bois Forte Band members exercising treaty rights, and contains no analysis of the cumulative environmental burden already borne by Ojibwe communities in the Ceded Territory and elsewhere. The Band is particularly concerned that the analysis fails to account for the historical and ongoing diminishment of treaty resources described above.
- E. **Air Quality Technical Scope.** Two comments from the Minnesota Pollution Control Agency concerning the scope of the best available control technology (“BACT”)-like analysis and an internal inconsistency in the criteria pollutant listing remain unresolved. The Band is concerned that unresolved air quality scoping issues will result in an EIS that underestimates air emissions and their impacts on the Band’s resources and members.
- F. **Structural Placement, Dispute Resolution, and Enforceability.** Tribal resources remain classified in the scoping documents as a socioeconomic sub-topic rather than as a topic warranting in-depth, stand-alone analysis. No dispute resolution mechanism exists for the Band to invoke if its concerns are not adequately addressed. The purpose and need statement is framed in a manner that may foreclose meaningful alternatives analysis. Moreover, the scoping documents do not disclose that the Project Area occupies less than 1.5 percent of the State mineral leasehold within which it is situated—information that is material to the evaluation of alternatives and the scope of potential future development.
- G. **Water Quality, Hydrology, and Manoomin.** Nineteen unresolved comments establish a troubling pattern: across sulfate transport, industrial stormwater quality, peat mercury mass balance, cumulative watershed loading, extreme-event effluent quality, treaty-territory extent, and baseline manoomin surveys, the DSDD commits to modeling without naming parameters, to assessment without naming endpoints, and to analysis without fixing geographic extent. This approach leaves the EIS’s actual water quality scope to be set by the consultant’s work plan rather than by the scoping decision—an outcome that is incompatible with the purpose of scoping and that poses a direct threat to the Band’s manoomin and aquatic resources.

- H. Connected Actions and the Scope of the Project.** The SEAW excludes the out-of-state processing facilities—specifically, the Beulah Minerals Processing Facility and Humboldt Mill—from the EIS on the ground that Minnesota lacks jurisdiction over them. This is not the applicable legal test for connected actions under Minnesota Rule 4410.0200, subpart 9c. The Band is concerned that the artificial narrowing of the Project’s scope will result in an EIS that fails to evaluate the full range of environmental impacts attributable to the Project.
- I. Treaty Rights, Tribal Resources, and Structural Placement.** The SEAW misstates which Ojibwe Reservations lie within the 1855 ceded territory, resolves a contested question of treaty interpretation in a single conclusory sentence, places all treaty and Tribal content beneath a “Planned Land Use” subheading. These errors and omissions reflect a fundamental failure to accord tribal treaty rights and governmental authority the weight they are due in the environmental review process.
- J. Cultural Resources.** There are several unresolved comments regarding evaluation of the Sandy Lake landscape, the absence of any provision for a tribally led cultural survey, the terms on which Tribal knowledge enters the record, and the lack of any method capable of detecting unmarked burials in a landscape occupied for approximately fourteen thousand years. The Band has a profound interest in the protection of cultural resources within the Ceded Territory, and the current approach to cultural resource evaluation is inadequate.
- K. Sulfate, Mercury Methylation, and Peatland Disturbance.** The SEAW identifies six designated wild rice waters downstream of the Project, three waters impaired for mercury in fish tissue, and hydric or peat soils across approximately sixty-seven percent of the Project Area, yet fails to identify the applicable wild rice sulfate standard, analyze sulfate loading, address sulfate-driven mercury methylation, or report specific conductance. These omissions are of direct concern to the Band given the documented decline of manoomin and the existing fish consumption advisories in the Ceded Territory.
- L. Manoomin and the Fish and Wildlife Significance Determination.** The SEAW concludes that construction poses no impact to wild rice resources while disclosing in the immediately following sentence that the baseline delineation on which that conclusion depends is still underway. A determination of no impact cannot rest on an incomplete baseline, and the Band is concerned that the significance determination for fish and wildlife resources is premature and unsupported.
- M. Human Health, Air, and Receptors.** The SEAW lacks substantive discussion of effects on human health. Elongate mineral particles are identified without any geologic occurrence analysis. Mercury emissions are dismissed against a permitting threshold with no deposition analysis. The Bois Forte Band’s members who harvest within the Ceded Territory are among the populations most likely to be affected by the Project’s air

emissions and contaminant pathways, and their omission from the receptor analysis is a significant deficiency.

- N. **Cumulative Effects, Foreseeable Projects, and Document Completeness.** District-scale development within the Tamarack Intrusive Complex is excluded from the cumulative effects analysis as speculative, even though the SEAW itself identifies the Raptor Zone and the ongoing exploration program. Cumulative Tribal burden is acknowledged in the scoping documents but analyzed nowhere, and no Tribal consultation plan exists. The Band is concerned that the EIS will fail to provide a meaningful cumulative effects analysis.
- O. **Water Quality Criteria and Antidegradation.** Neither scoping document identifies the beneficial use classifications, numeric standards, or narrative standards applicable to any receiving water. Antidegradation review appears nowhere in the scoping record despite the Project proposing a new discharge to waters that are already impaired and that carry a designated wild rice use classification. The Band's treaty-reserved harvesting rights depend on the maintenance of water quality in the Ceded Territory, and the absence of any antidegradation framework from the scoping documents is a serious concern.
- P. **Contact Water Treatment, Residuals, and Capacity.** A single water treatment technology is identified with no alternative carried for evaluation. The reverse osmosis reject stream is assigned to a solid waste landfill with no stated volume, composition, or waste characterization. No design capacity or upstream storage volume is provided. The Band is concerned that the absence of treatment alternatives and residuals management details will result in an EIS that cannot adequately evaluate the Project's water quality impacts.
- Q. **Acid Rock Drainage Geochemistry.** The SEAW's assumption that flooding the mine eliminates acid rock drainage overlooks the established geochemical principle that ferric iron oxidizes iron sulfides without dissolved oxygen, a reaction of particular relevance here because the deposit is pyrrhotite-dominant. Neither scoping document reflects the RGU's own prior acknowledgment that flooded workings must be evaluated under both oxic and anoxic conditions. The Band is concerned that the geochemical analysis as currently scoped will underestimate the long-term risk of acid generation.
- R. **Materials Classification and Quantities.** The regulatory classifications established at Minnesota Rule 6132.0100 are not used in the scoping documents. No cutoff criterion distinguishing ore from waste rock is stated, and no quantity of any material class appears in the scoping record. Without this fundamental information, the Band and the public cannot evaluate the magnitude of the Project's waste management challenge or the adequacy of proposed mitigation.
- S. **The Modeling Record.** None of the seventeen studies identified in the scoping record provides for Conferring Tribe review, access to model files and calibration records, or

limits on proprietary designation. The Project Proposer's baseline data—collected since 2008—has been withheld from the scoping record. The Band has a sovereign interest in reviewing and evaluating the technical analyses that will inform the EIS, and the current framework for data access is inadequate.

- T. Reclamation, Closure, and the End State.** The scoping documents indicate that infrastructure would be removed only “if there is no beneficial reuse for the site.” No closure schedule is stated, and the scenario in which post-closure water quality requires treatment indefinitely is analyzed nowhere. The Band is concerned that the absence of enforceable closure commitments will leave the Ceded Territory's resources at risk long after mining operations cease.
- U. Depth, Production Rate, and the Design Envelope.** The mine bottom is set at 2,000 feet while the host unit extends to 2,300 feet. No design envelope for modeling is established, and no threshold at which a change in depth, footprint, or throughput would trigger further environmental review is identified. The Band is concerned that the absence of a defined design envelope will permit material changes to the Project without commensurate environmental analysis.
- V. The Design Basis of the Proposed Project.** Neither scoping document states the criteria that bound the proposed mine plan within the deposit. The Project design has been revised repeatedly during scoping without establishing a design of record or requiring that later changes be disclosed and evaluated. The Band is concerned that the EIS will analyze a design that may bear little resemblance to what is ultimately constructed.
- W. Water Balance, Dewatering Assumptions, and Hydrogeologic Uncertainty.** The site water balance is committed to a future data submittal rather than presented as an analysis in the scoping record. The assumed effectiveness of grouting is embedded within the inflow model and stated nowhere explicitly. Uncertainty in aquifer properties is resolved by adopting a central value rather than reporting a range. The Band is concerned that these deficiencies will produce a water balance analysis that understates uncertainty and the potential for adverse effects on groundwater-dependent resources in the Ceded Territory.
- X. The Mine Waste Facility.** No footprint, height, storage capacity, staging sequence, or design storm event is stated for the mine waste facility. The time to onset of acid generation is identified nowhere. The closure cover system and progressive reclamation are described as intentions rather than testable, enforceable commitments. The Band is concerned that the absence of this fundamental design information precludes meaningful evaluation of the facility's environmental risks.
- Y. Determinations the Scoping Decision Does Not Schedule.** No groundwater non-degradation review appears in the scoping documents despite the Project proposing to place reactive material below the water table. Construction-phase water is scoped only as an

erosion and sediment control matter during the phase of greatest hydrologic disturbance. The Band is concerned that these omissions will result in an EIS that fails to evaluate significant groundwater and construction-phase impacts.

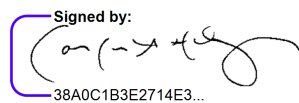
- Z. Subsidence.** The crown pillar analyses have not been produced, and neither scoping document identifies subsidence as a topic requiring EIS analysis. Mechanisms for subsidence at this site—including soil consolidation from dewatering, void propagation, and depressurization around ventilation shafts—are not addressed. The Band is concerned that the failure to scope subsidence will leave a significant risk to surface resources and hydrology unexamined in the EIS.

Closing

The Bois Forte Band reaffirms its commitment to protecting its treaty-reserved rights and the natural resources of the Ceded Territory upon which those rights depend. The concerns set forth in this letter reflect the Band's determination that the SEAW and DSDD, as currently drafted, do not adequately account for the Project's potential impacts on treaty resources, Tribal health, cultural resources, and the environmental integrity of lands both within and outside of the Ceded Territory.

The Band respectfully requests that the RGU give full and meaningful consideration to each of the concerns raised in this letter and in the Mille Lacs Band Comments referenced herein. The Band reserves its right to submit further comments as the environmental review of the Tamarack Mining Project proceeds, including comments on the draft EIS and any subsequent environmental review documents.

Respectfully submitted,

Signed by:


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Carlos Hernandez

Chairman

Bois Forte Reservation Tribal Council