



**Fond du Lac  
Environmental  
Program**

RECEIVED  
2009 DEC -4 AM 7:51  
MINNESOTA  
ADMINISTRATIVE  
HEARINGS

December 2, 2009

Steve M. Mihalchick  
Administrative Law Judge  
Minnesota Office of Administrative Hearings  
P.O. Box 64620  
St. Paul, MN 55164-0620

**RE: Excelsior Energy Final Environmental Impact Statement ("FEIS"),  
DOE/EIS-0382, MN PUC Docket #E6472/GS-06-668**

Dear Judge Mihalchick:

The Fond du Lac Band of Lake Superior Chippewa ("the Band") is located in northeastern Minnesota and covers 101,400 acres. Band members also retain usufructory rights in the Ceded Territories, which cover 14,842 square miles in the Arrowhead region of the state. These rights include hunting, fishing, and gathering.

The Band is concerned that issues of regional haze have not been fully addressed in Excelsior Energy's FEIS. While it is our understanding that issues such as visibility offsets and the facility's Best Available Control Technology ("BACT") determination will be resolved during permitting, the Band would like to reiterate our comments from January 11, 2008 on the facility's Draft EIS for the record.

The Band is concerned with visibility issues in the region's mandatory Class I areas: Boundary Waters Canoe Area Wilderness ("BWCAW"); Voyageur's National Park ("VNP"); Isle Royale National Park; and Rainbow Lakes Wilderness. The FEIS shows that there may be visibility issues at BWCAW and VNP due to emissions from either the West Site or the East Site (Tables 4.3-13 and 4.3-14). The facility is proposing to mitigate the effects of these emissions by purchasing offsets. However, Excelsior is the third facility in the area we are aware of to propose this option for the purposes of protecting visibility in the past several months. Both Essar Steel (formerly Minnesota Steel) and Mesabi Nugget Phase I have mitigation requirements in their air permits. Since offsets need to come from local sources in order to have an effect on area visibility, the Band is concerned there will not be enough credits available locally for each of these three facilities to purchase.

The Band agrees with the Federal Land Managers ("FLM's") who have written comment letters regarding the determination of Best Available Control Technology ("BACT") at the facility. We would like support to the use of the "enhanced" control technologies. Please refer to the Band's letter of January 11, 2008 for details.

In our comment letter on the DEIS, the Band noted that the state's mercury Total Maximum Daily Limit cannot support the type of mercury emissions that are expected from this plant. While the FEIS states (page 4.3-36) that activated carbon beds will be installed at the plant, the Band continues to remain concerned about any new mercury releases in sensitive areas such as this.

If you have any further questions on these comments, please call Joy Wiecks of my staff at 218-878-8008.

Sincerely,



Wayne Dupuis  
Environmental Program Manager  
Fond du Lac Reservation

c.c. Richard Hargis, U.S. Department of Energy  
Carol Borgstrom, U.S. Department of Energy  
William Cole Storm, Minnesota Department of Commerce