

Permitting Status of the Copperwood Mine Project

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COPPERWOOD PROJECT – PERMIT RESEARCH

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List of Abbreviations and Acronyms

	Full Term	Explanation
AAR	Alternatives Analysis Report	2018 publication from Copperwood that analyzed various options pertaining to major aspects/components of the proposed mine
App.	Application	Application (for a permit)
ATF	Bureau of Alcohol, Tobacco, and Firearms	Federal agency overseeing, among other things, explosives
CRI or Copperwood	Copperwood Resources, Inc.	Company that owns and plans to develop the Copperwood mine
EGLE	Michigan Department of Environment, Great Lakes, and Energy	Michigan department overseeing environmental issues and related permitting
FS	Feasibility Study Update	2023 publication by Copperwood outlining plan for mine and mining operations ¹
GCRC	Gogebic County Road Commission	Gogebic County governmental entity that oversees public roads and related permitting
Highland	Highland Copper Company, Inc.	Canadian parent company to Copperwood
ITZO	Ironwood Township Zoning Ordinance	Zoning ordinance applicable to land located in Ironwood Charter Township
KBIC	Keweenaw Bay Indian Community	Federally recognized Indian (Native American) tribe located in Baraga County
MCL	Michigan Compiled Law	Abbreviation used in citing Michigan statutes
MCR	Michigan Court Rules	Abbreviation used in citing specific rules used in Michigan courts
MDEQ or DEQ	Michigan Department of Environmental Quality	Former name for EGLE
Mich. Admin. Code	Michigan Administrative Code	Used in citing regulations applicable to specific Michigan agencies
Mining Permit		Nonferrous metallic mineral mining permit, issued pursuant to Part 632, NREPA
NPDES	National Pollutant Discharge Elimination System	A permit authorizing the discharge of wastewater
NREPA	Natural Resources and Environmental Protection Act	An Act of Michigan legislation that includes laws governing environmental resources
Orvana	Orvana Resources US Corp.	Copperwood's former name
SESC	Soil Erosion and Sedimentation Control	A county-authorized permit for certain earth-moving projects
Site/Copperwood Site		The location of the Copperwood project, as defined in the "Introduction" section

¹ The 2023 Feasibility Study Update is not to be confused with previous versions issued in 2012 and 2018 by Orvana and Copperwood, respectively. All references to the "FS" or the "Feasibility Study" are to the 2023 edition.

TDF	Tailings Disposal Facility	A part of the proposed mine at which the left-over materials from mining are disposed
USACE	United States Army Corp of Engineers	Branch of US Army that oversees certain civil construction projects and related permitting
USC	United States Code	Abbreviation denoting citation to federal law
WTZO	Wakefield Township Zoning Ordinance	Zoning ordinance applicable to land located in Wakefield Township

I. INTRODUCTION

The Copperwood Project is developed and owned by Copperwood Resources, Inc. (“CRI” or “Copperwood”), a subsidiary of the Canadian mining company, Highland Copper Company, Inc. The Copperwood Project is located in Gogebic County and straddles Ironwood and Wakefield Townships. CRI owns or leases the land and the mineral rights to 1,188 hectares, as seen in Figure 1 which comes from the “[Copperwood Project Feasibility Study Update](#)” (the “FS”), a nearly-500-page report published by CRI in April 2023.

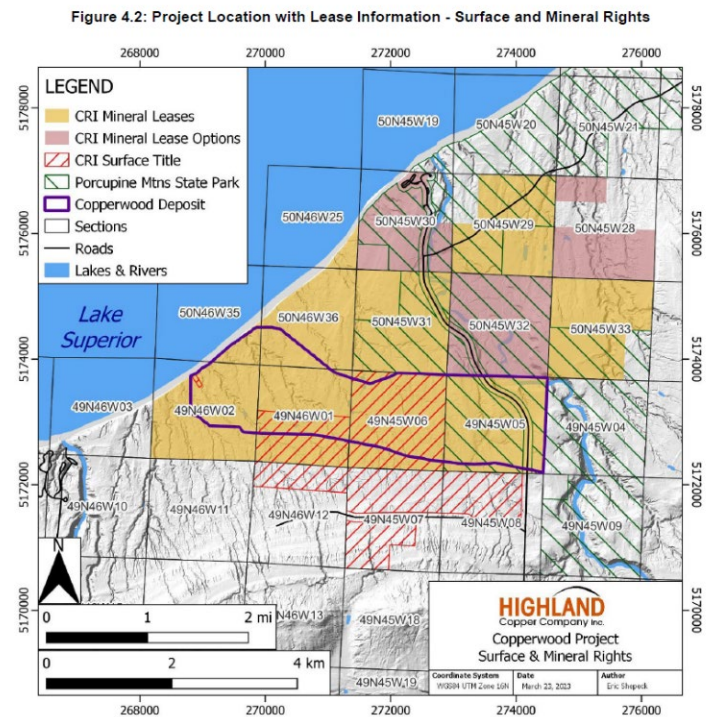
CRI was formerly known as Orvana Resources US Corporation (“Orvana”). Orvana was originally independent of Highland Copper, but was [purchased](#) by the latter in 2014.

Multiple local, state, and federal permits are required for CRI to carry out mining operations and other incidental projects. Much of Copperwood’s permitting and regulatory work was completed by Foth Infrastructure and Environment (“Foth”). **FS 1.1.**

The subsequent sections go into great detail regarding each of these permits, but what follows is a chart indicating current status, appeal options, etc. of each of the “main” state-issued permits, i.e. those which must be secured in order for Copperwood to actually start mining:

Permit Status Chart

Permit (Authorizing Legislation)	Status	Contested Case Allowed?	Public Hearing/ Other Options?	Next Steps
Part 632 – Nonferrous Metallic Mining MCL 324.63205	Conditionally approved, pending completion of other items	Yes, but may be considered untimely by EGLE (60-day limit after approval to be considered “timely”)	Yes, but window of time has lapsed. No current option.	



Permit	Status	Contested Case Allowed?	Public Hearing/ Other Options?	Next Steps
Part 31 - National Pollutant Discharge Elimination System MCL 324.3112	Current through October 1, 2024. Last date for renewal application submission is April 4, 2024	Yes, any aggrieved person may file a petition within 60-day timeframe after grant of permit.	Public comment period opens w/ application; option to hold public hearing is within EGLE's discretion.	Permit expires October 1, 2024. Public comment period opens following application.
Part 55 – Air Permit to Install MCL 324.5505	Application for amendment currently being processed by EGLE (pending)	No, but a judicial appeal is provided for at MCL 324.5505(8); process dictated by MCL 600.631.	Application is considered to be “of public interest,” thus option for public comment exists.	Public comment period will open soon; if requested by <u>any person</u> during that time, public hearing will be held.
Part 301 – Inland Lakes and Streams MCL 324.30104	Expired. New one required for any future work on any streams on the property	Yes, any aggrieved person may file a petition within 60-day timeframe after grant of permit.	Public comment period opens upon receipt of application; option to hold public hearing is within EGLE's discretion unless requested by specific party. ²	If new application is submitted (likely in coming months), public comment period will open. EGLE will consider holding hearing if app. receives significant attention.
Part 303 – Wetlands MCL 324.30306	Expired. New one required for further development within wetland areas	Yes, any aggrieved person may file a petition within 60-day timeframe after grant of permit.	Public comment period opens when app. is received; option to hold public hearing is within EGLE's discretion unless requested by any party via public comment.	When new app. is submitted (likely in coming months), public comment period will open. EGLE will consider public hearing if application receives significant attention.
Part 315 – Dam Safety MCL 324.31509	Permit is current, but final engineering plans will need to be submitted prior to construction	Yes, any aggrieved person may file a petition within 60-day timeframe after grant of permit.	Public comment period opens upon receipt of app.; public hearing can be requested by any party, but decision is w/in EGLE's discretion.	Since permit is already granted, no upcoming opportunities for public hearing or contested case.
Part 325 – Bottomlands MCL 324.32512	<i>Current plan does not require a part 325 permit</i>	Yes, any aggrieved person may file a petition within 60-day timeframe after grant of permit.	Public comment period upon receipt of app.; EGLE has discretion to hold public hearing unless requested by specific party. ³	

² For Part 301 permits, the only parties whose request of a public hearing may result in one being held are the applicant, adjacent riparian owners, and certain local governmental bodies. MCL 324.30105(3).

³ As used here, “specific party” refers to adjacent riparian owners and certain local governmental officers and bodies. MCL 324.32514(A).

Strategy Going Forward

As you see, opportunities for formal public input are quite limited at this point in the permitting process. The public can, however, always submit comments whenever there is a regulatory window during which the agency must accept or consider them. For example, when the detailed plans for the Part 315 permit are submitted (see Section II(H) below), you can obtain those via the Freedom of Information Act and submit comments. The agency likely will not respond, but if there are serious technical issues, you can follow up as needed with the Governor's office, etc.

Other avenues for challenging the mining itself, not the permit issuances, are the Michigan Environmental Protection Act (MEPA) and perhaps the public trust doctrine. MEPA provides broad standing. The Part 632 standard is derived from the MEPA standard, so even though the window is likely closed on a Part 632 challenge, MEPA may be another path to challenge the mining company. We have tried using the public trust doctrine and the state's duty to protect natural resources as a cause of action and that has not been successful. That being said, part of any successful strategy has to be slowing down the process and making it more expensive for the company to get to the mining stage. This project appears to be economically marginal as it is, so the added expense of extended litigation may be enough to dissuade investors from continuing to fund its development. It is useful to keep in mind that for the company, this is a purely economic issue. Arguments about the environment are not going to sway it; showing them that the project will cost significantly more to get to the production phase is much more likely to impact corporate decisionmakers. Years ago, Dave Chambers told me that he had never seen technical issues stop a mine, that the company and regulators believe (or at least say) that nearly every single technical issue can be re-engineered, "re-modeled," or somehow minimized. That has been borne out; perhaps in other jurisdictions regulators are more discerning, but this is Michigan. On the other hand, if investors pull out, the minerals will stay put unless or until new funding is obtained.

That is not to say that public involvement and technical and legal arguments are not important – they are. The best strategy is to use all the strategies for as long as you possibly can.

II. STATE PERMITS REQUIRED

These permits are issued by Michigan's Department of Environment, Great Lakes, and Energy (EGLE). EGLE's Oil, Gas, and Minerals division authorizes Part 632 permits; the Air Quality division authorizes Part 55 permits; the Water Resources Division authorizes Part 31, Part 301, Part 303, Part 315, and Part 325 permits.

A. Part 632 – Nonferrous Metallic Mineral Mining Permit

1. Overview

- In order for Copperwood to operate a mine, it must have a Nonferrous Metallic Mineral Mining Permit, referred to as a "Part 632 Mining Permit" issued pursuant to MCL 324.63205, Part 632, Nonferrous Metallic Mineral Mining, National Resources and Environmental Protection Act (NREPA).

2. Status

- CRI's predecessor, Orvana Resources, was issued a Part 632 mining permit on April 30, 2012 (permit # **MP 01 2012**); this permit and its conditions can be found [here](#).
 - Although, generally, the transfer of a Part 632 permit from one entity to another requires that a formal process be followed (MCL 324.63207(4)), because Orvana was purchased by Highland Copper and renamed, no "transfer" occurred per this statutory definition.
 - Permit MP 01 2012 was amended on February 7, 2013, and in March 2018. The 2018 application for amendment consists of two volumes, found through EGLE [here](#) (vol. I) and [here](#) (vol. II).
 - The 2018 request for amendment was approved, but the MDEQ imposed additional terms and conditions to comply with the permit throughout the mining process. That final decision, referred to as the 2018 Amendment (to the Part 632 Permit) is available through EGLE [here](#).

i. Part 632 Permit is Contingent on Other Permits

- Mining permit # MP 01 2012 contains a critical condition at sec. B(2):

This mining permit is not effective until all other permits required under the Natural Resources and Environmental Protection Act (NREPA) for the Copperwood Mine are obtained. The permittee shall comply with all other applicable permit standards under the NREPA.
- This condition is crucial to Copperwood's entire operational status. Without all proper state-issued permits in place, Copperwood cannot commence mining. As of early March, 2024, Copperwood does not have all state-issued permits up to date. This matter is discussed at length in the following sections.

ii. Part 632 Permit is Contingent on Financing

- In addition to the Part 632 permit being contingent on approved state-issued permits being in place, Copperwood is required to obtain financial assurance.
 - As per the 2018 amendment to permit #MP 01 2012 and MCL 324.63211, permit #MP 01 2012 will not be effective until sufficient financial assurance has been secured. Based on the Feasibility Study Update, it appears that Copperwood has financing in place and will readjust the amount and submit to the state for approval once final plans are confirmed. **FS 20.5.1.1, 20.6.1.**

3. Upcoming Opportunities to Challenge – Contested Case

i. What is a Contested Case?

- A *contested case* is a formal proceeding before an agency (in this case, EGLE) that involves an evidentiary hearing and culminates in the agency making a determination as to the legal rights, duties, or privileges of the party named in the proceedings. MCL 24.203(3).
- The exact procedures for a contested case vary somewhat depending on what type of NREPA permit the proceeding is brought under: Part 13, or non-Part 13.
 - Part 13 permits (those included within the definition of “permit” at MCL 324.1301(f), Part 13, NREPA) – contested cases based on these permits follow the procedure outlined at MCL 324.1317 and the Administrative Procedures Act of 1969 (the “APA”) (MCL 24.201 *et seq*)
 - Non-Part 13 permits – contested cases under these permits only follow the procedure of the APA.
 - The seven main state-issued permits that are relevant to the Copperwood mine are categorized as follows: ⁴

Part 13 Permits	Non-Part 13 Permits
Part 301 – Inland Lakes and Streams	Part 632 – Mining Permit
Part 303 – Wetlands	Part 31 – NPDES
Part 315 – Dam Safety	Part 55 – Air Permit to Install
Part 325 - Bottomlands ⁵	

ii. Mining Permit Contested Case

- MCL 324.63219 on nonferrous metallic mineral mining permits states:
 - (1) A person who is aggrieved by an order, action, or inaction of the department or by the issuance, denial, revocation, or amendment of a mining permit under this part may file a petition with the department

⁴ To avoid confusion, it’s important to understand that although some state-issued permits are not considered Part 13 permits, Copperwood is still required to have them in place in order to begin mining. The only difference between the two categories is in contested case and appellate proceedings.

⁵ See footnote 19.

requesting a contested case hearing, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after an order, action, or inaction of the department or an action on a mining permit may be rejected as being untimely.

(2) Any hearing under this part shall be held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328....

- A contested case hearing under this statute is treated as a continuation of the original permitting process.
 - The objecting party has the burden of proof re: their objections, and the mining company has the burden of proof re: compliance with the law. *Nat'l Wildlife Fedn v Dep't of Environmental Quality*, 306 Mich App 336; 856 NW2d 252 (2014).

iii. No Current Opportunity to Challenge Permit #MP 01 2012

- Unfortunately, because the 60-day timeframe has long-since passed and this permit likely will not be amended anytime soon, there is no opportunity to directly challenge or publicly comment on Copperwood's Part 632 permit.⁶ Other opportunities may arise if a significant amendment is sought.
- That being said, any challenge to the other state-issued permits in this section is effectively a challenge to the mining permit, as those state-issued permits are prerequisites for this one.

4. Public Comments Made by the Keweenaw Bay Indian Community

- On December 7, 2011, the Keweenaw Bay Indian Community (the "KBIC") submitted comments to the MDEQ on Orvana Resources' Part 632 permit application, expressing concern that some aspects of the mine's plans were inadequate and would have potentially adverse impacts. [Ex. 1, 12/07/2011 KBIC Letter](#).⁷
 - A second letter, this one in response to MDEQ's proposed decision to grant the Part 632 permit, was dated April 9, 2012, and restated their concerns. [Ex. 2, 04/09/2012 KBIC Letter](#).
- Although these letters went into great detail about the Community's concerns, the five primary problems were stated as follows:

[1] The mining permit requested would authorize [Copperwood] to mine to within 200 feet of Lake Superior and would allow collapse of the mined openings and subsidence of the land surface.

⁶ With new applications for Part 632 permits, there is a public comment period of 28 days following application, and 28 days following public hearing. MCL 324.63205(7)-(9). However, this timeframe has long-since passed.

⁷ This exhibit and all others are uploaded to google drive and are accessible via the link provided. See "Sources" section below for more information.

- [2] The tailings basin fills in 8,000 feet of existing streams, over 59 acres of wetlands, destroys at least two local watersheds and has the distinct possibility of requiring perpetual care after mining ceases.
- [3] Both the major impacts of subsidence and the large tailings basin could be minimized or eliminated by use of backfill.
- [4] Critical studies and required [Copperwood] decisions are missing from the MPA prohibiting the state agencies or the public to fully assess the adverse impacts.
- [5] The contingency plans contained in the MPA for the post-closure period are inadequate.

Ex. 1, p. 2.

- The KBIC requested that changes be made to the Part 632 permit to reflect these concerns, and Copperwood did meet with the KBIC in 2017.⁸ However, when the Part 632 permit was renewed in 2018, virtually none of the KBIC's issues were reflected in the changes made.

Concern 1: Mining within 200 feet of Lake Superior

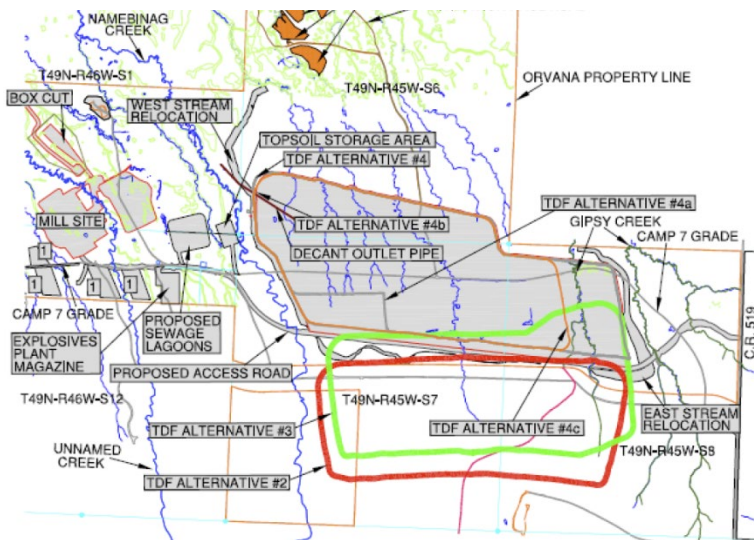
- Currently, Copperwood plans to reserve a 100ft (30m) setback from Lake Superior. **FS 15.1, 16.2.12.**
 - This setback is based on a June 2018 study titled "Copperwood Project – Tailings Disposal Facility and Water Balance" and a May 2018 study titled "Geotechnical Design Studies for the Proposed Room-and-Pillar Mine – Copperwood Project," both prepared by Golder Associates, Inc. which are referenced in the FS.
 - Unfortunately, neither study appears to be publicly available in its entirety, but may be obtained via a FOIA request if EGLE is in possession of them.
 - However, the Feasibility Study does state that "[m]inimal to no subsidence of the overlying bedrock and overburden are indicated in a comprehensive geotechnical report (Golder, 2018). This supports the premise that the ground surface will not be affected and impact features such as streams and wetlands. The Mining Permit requires subsidence monitoring and reporting throughout operations." **FS 20.1.7.**⁹
 - The MDEQ did comment on this concern in a "summary response" issued in March 2018 in response to various public comments made on Copperwood's proposed Part 632 permit amendment. That summary response is available [here](#); see questions 31 and 32 where EGLE concludes that the submitted modeling is adequate to address this concern.

⁸ See Copperwood's "Mining Permit Application Amendment, vol. II" (available through EGLE [here](#)) at p. 2.

⁹ Note that under some circumstances, drilling a test well into bedrock requires a Part 625 permit, which would entail much more thorough oversight by EGLE and, likely, more thorough analysis of the potential impact on the lake in general. However, because the bedrock adjacent to Lake Superior is Precambrian, such a permit is not required. MCL 324.62509(3).

Concern 2: The Tailings Basin

- The KBIC's concerns with the Tailings Disposal Facility (TDF) were that it would fill in/alter many feet of streams, disturb many acres of wetland, and potentially require perpetual care post-mining.
- In 2018, Copperwood put together an [Alternatives Analysis Report \("AAR"; Ex. 3\)](#) that analyzed various options pertaining to major aspects/components of the proposed mine. The AAR explained that Copperwood plans on utilizing what it refers to as "Alternative 4B" for their TDF, a plan in which the TDF would be centrally located and would reroute a particular stream via a natural channel.



A portion of a figure from the AAR depicting alternative sites for the TDR. Alternative 4B, the one Copperwood plans on utilizing, can be seen outlined in orange and would involve the "decant outlet pipe" shown in brown.

- Alternative 4B now estimates a wetland impact of 51.25 acres which, although slightly down from the figure cited by the KBIC (59+ acres), is still the second-highest wetland impact by acreage of any alternative cited in the AAR.
- The stream impact of Alternative 4B is 16,557 linear feet; this is significantly higher than KBIC's cited 8,000 feet, and is the highest stream impact (by length) of any of the alternatives pondered in the AAR.
- The AAR considered other potential TDF locations both on- and off-site. Although its decision-making process was rather nuanced, Copperwood effectively elected to go with the TDF alternative that would be fastest to construct, was one of the least risky options (from safety and financial perspectives), and is one of the least costly options.
 - *This choice was made despite there being alternative TDF locations that would have significantly lesser environmental impacts.*
 - For example, Alternative 2 would have the lowest environmental impacts at only 6.03 acres of impacted wetland and 3,706 linear feet of streams.
 - However, Alternative 2 was dismissed for being significantly more expensive, for having a dike whose height presented visibility and safety concerns, and would potentially involve having to acquire additional land.

- Other alternatives were dismissed based on similar concerns relating to feasibility and cost.

Concern 3: Backfilling of Tailings Basin

- The AAR shows that Copperwood did consider using backfilling methods (using non-mineral material obtained in mining to refill excavated areas) such as those suggested by the KBIC.
 - It was estimated that various backfilling methodologies could reduce the TDF footprint by up to 40% (from 348 acres to approx. 219 acres) by utilizing a paste backfill method with no addition of aggregate material.
 - However, such an approach would cost a minimum of \$63 million more, an increase that was considered to be “potentially prohibitive to the economic viability of the Copperwood Project and therefore were also not considered prudent or practicable.” AAR sec. 8.1.4.
 - It should also be noted that if Copperwood were to utilize the paste backfill method with the addition of aggregate material (which would increase the stability of the TDF area), the TDF size reduction would only be approximately 20% and would cost more than the paste backfill method alone.
- See also the above-cited “summary response” by the MDEQ, response to question 14 (which states, in part: While the MDEQ encourages backfilling of mined out areas, this may not be applicable to all mine projects).

Concern 4: Missing Critical Studies

- These studies have been conducted in the years since the KBIC’s letter (see Permit Amendment vol. II, the AAR, etc. for example).

Concern 5: Inadequate Contingency Plans

- The current status of Copperwood’s contingency plans is unknown, but an email from EGLE to a Mining Journal Reporter in November 2023 ([Ex. 4, 11/20/2023 Emails from EGLE](#)) did indicate that more complete/thorough plans are needed prior to the commencement of mining operations.

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- In short, while many of the concerns raised by the KBIC were not alleviated through amendments to the Part 632 permit, CRI’s plans did not receive any significant opposition from EGLE or other authorities.
 - Similarly, in 2021 the KBIC sent another letter to EGLE commenting on the conditions of and circumstances surrounding Copperwood’s application for a Part 31 NPDES permit (permit discussed in the following section) and requested the permit’s denial pending further environmental studies, etc. [Ex. 5, 08/25/2021 KBIC Letter](#).

- EGLE responded to each of the KBIC's points with similar inaction; it assured the KBIC that CRI's plans were compliant with applicable rules and regulations. [Ex. 6, 01/21/2022 EGLE Letter to KBIC](#).

B. Part 31 – National Pollutant Discharge Elimination System Permit ¹⁰

1. Overview

- A National Pollutant Discharge Elimination System Permit (a “NPDES” permit), or a Part 31 permit (authorized by MCL 324.3112, Part 31 Water Resources Protection, NREPA; as well as Part 41 Sewerage Systems, NREPA; and the federal Water Pollution Control Act, 33 USC § 1251 et seq) authorizes the discharge of wastewater into surface water.
 - A NPDES permit imposes maximum levels of specific pollutants that may be discharged into a given body of water within a certain time period (generally daily or monthly).
 - Copperwood needs an NPDES permit in order to dispose of the water used in its mining operations; it plans to discharge wastewater into the west branch of Namebinag Creek. **FS 18.11.6, 18.11.9, 20.4.**

2. Status

- Orvana Resources first obtained an NPDES permit on November 13, 2012 (permit # **MI0058969**), which expired on October 1, 2017.
 - On January 31, 2022, a new Part 31 permit (same number) was issued to CRI. This permit explicitly terminated the previous permit, and became effective on May 1, 2022. [Ex. 7, 2022 NPDES Permit #MI0058969](#).
 - It remains effective through October 1, 2024, but an application for renewal must be submitted by April 4, 2024. EGLE seemingly has indicated that a renewal application has been submitted and is pending, but no other source has been found to corroborate this. **Ex. 4.**
- The NPDES permit is an “authorization to discharge,” in that it permits Copperwood to discharge up to a maximum amount of various chemicals/substances within the time period for which the permit is valid (see **Ex. 7, pp 3, 8**); the permit is valid for that entire time period (so long as all requirements are met) regardless of whether or not discharge is actually occurring. ***Id.* at p. 2, “Permit Fee Requirements” section.**
 - Thus, renewal will need to occur regardless of whether or not Copperwood has actually started discharging by October.

¹⁰ Multiple permits can be authorized under Part 31, and one may come across references to permits other than the NPDES referred to as “Part 31” permits. However, for the sake of this report on the Copperwood matter, “Part 31 permit” means a NPDES permit.

3. Upcoming Opportunities for Public Involvement

- Upon application for a new or amended NPDES, a public notice is issued by way of EGLE's [MyEnviro Portal](#). At such a time, a 30-day public comment window will open, during which any person may submit a comment through the Portal.
 - Additionally, any person may request that a public hearing be held. EGLE may hold a public hearing if it feels that there is significant public interest in the matter or if useful information may be produced by way of a public hearing, but it is within EGLE's discretion to grant or deny such a request.

4. Upcoming Opportunities for Challenge – Contested Case

- Because CRI's NPDES permit is up for renewal later this year, an opportunity for an "aggrieved person" to initiate a contested case proceeding will arise.
- For NPDES permits, which are non-Part 13 permits, statute provides the following to allow contested cases:

A person who is aggrieved by an order of abatement of the department or by the reissuance, modification, suspension, or revocation of an existing permit of the department executed pursuant to this section may file a sworn petition with the department setting forth the grounds and reasons for the complaint and requesting a contested case hearing on the matter pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after action on the order or permit may be rejected by the department as being untimely.

MCL 324.3112(5). A similar provision can be found in Copperwood's permit #MI0058969 itself, on page 2.

- If/when this permit is renewed, an "aggrieved person" may file a petition for a contested case. The petition would be considered timely so long as it is filed within 60 days of the permit's reissuance.
 - Although the term "aggrieved person" is not defined within the statute, case law has held that adjacent landowners, as well as a nonprofit association whose purpose is to prevent pollution and whose members are landowners who may be affected by the permittee's actions may be considered an "aggrieved person" for the purpose of holding a hearing under Part 31's precursor. *White Lake Improv Asso v Whitehall*, 22 Mich App 262, 278; 177 NW2d 473 (1970).

C. Part 55 – Air Permit to Install

1. Overview

- A Part 55 permit (authorized by MCL 324.5505, Part 55 Air Pollution Control, NREPA), is required in order to install, construct, etc. any facility or equipment that puts out airborne pollution, as specified and regulated by Part 55.
 - For the Copperwood mine, a Part 55 permit is needed to install mine exhaust vents, to transport certain materials used in mining, to maintain stockpiles and its tailings disposal facility, etc. **FS 20.1.10**.
 - Note that a separate Part 55 Air Permit to Operate is required in order for Copperwood to actually operate certain elements of its mining facility – this is discussed at further length in section V(A)(1), below.

2. Status

- A Part 55 permit was first issued to Copperwood on November 26, 2018 (permit #180-11A); this permit and its conditions can be found through EGLE’s website, [here](#).
 - This permit was set to expire on October 16, 2023.
 - On April 7, 2023, Foth sent a [letter](#) to EGLE announcing its intentions to renew the permit once again, this time to incorporate natural gas generators on the site. **See also FS 20.5**.
 - Of note, the April 2023 letter indicates that meteorologic data from Green Bay, WI will be used; this will not account for the strong influence of Lake Superior on meteorology at the site.
 - The application for renewal ([here](#)) was submitted August 22, 2023.¹¹
 - As of early March 2024, that application is still pending.¹²

3. Upcoming Opportunities for Public Involvement

- Although most Air Permits to Install are not generally subject to public comment, there are some exceptions such as when the proposed activity would produce high levels of pollutants, or when an application is of public interest (generally large-scale projects).
- Copperwood’s Part 55 permit falls into the latter category; EGLE has deemed it to be of public interest. This means that, at some point in the near future following the application being processed, this permit application will be made available for public comment.
 - EGLE maintains a list of applications that are open for public comment on their website. This list is updated every Monday, and the most recent version can be found at this [link](#) by clicking on “Applications Open for Comment” under the Permits to Install public notice category.

¹¹ See also Copperwood’s entry on EGLE’s “Applications of Interest” [page](#).

¹² The list of pending applications can be accessed at EGLE’s website [here](#) – click the “List of Other Pending Applications” link under the “Also of Interest” header.

- If requested via public comment, EGLE will hold a public hearing on the application.

4. Upcoming Opportunities for Challenge – Judicial Appeal

- An opportunity for a contested case is not provided for a Part 55 Air Permit to Install. MCL 324.5505(8) (citing MCL 600.631)); *Wolverine Power Supply Coop, Inc v Dep't of Environmental Quality*, 285 Mich App 548; 777 NW2d 1 (2009).
- Rather, Part 55 permits can be contested by filing an appeal in circuit court.¹³ MCL 600.631. This is a judicial review as opposed to an administrative one.
- The rules for appealing a permit decision are laid out at MCR 7.123; some noteworthy information about the process includes:
 - The appeal must be filed within 21 days of the decision to grant the permit (MCR 7.104(A)(1))
 - The filing of an appeal does not stay enforcement of the permit; in order to do so, the appealing party must also file a motion seeking a stay (MCR 7.123(E))
 - The circuit court has the power to affirm, reverse, remand, or modify EGLE's decision, and may also grant further relief as appropriate (MCR 7.123(G))

D. Part 301 – Inland Lakes and Streams Project Permit

1. Overview

- A Part 301 Inland Streams Permit allows the permittee to, among other things, diminish or reroute inland streams. MCL 324.30102.
- Multiple Part 301 permits have been issued to Copperwood over the years for various projects, including the following:
 - #12-27-0050-P. Issued to Copperwood, expired on February 22, 2018.
 - #WRP005081 was issued to Orvana/Copperwood on November 9, 2016, and expired on November 9, 2021.
 - #WRP007894. Issued July 24, 2017, expired July 24, 2022.

2. Status

- *See section II(G) below on the joint permit issued to CRI under Parts 301, 303, and 325.*

3. Part 301 Permits and Public Involvement

- Any person may comment publicly on an application for a Part 301 permit via the MiEnviro Portal.¹⁴

¹³ Jurisdiction for such an action lies in the circuit court of the county in which the appellant is a resident, or in Ingham County Circuit Court. MCL 600.631.

¹⁴ Any person can sign up to be on the MiEnviro mailing list to receive updates on permit activities; see section VI(B) for more information.

- However, a public hearing is not required to be held on Part 301 permits.
 - EGLE will only hold a public hearing if an interested party requests one. MCL 324.30105(2)-(3).
 - As it pertains here, an interested party is the applicant, a riparian owner, governmental unit, or certain governmental officials. *Id.*

4. Challenges to Part 301 Permits

i. Contested Cases Involving Part 13 Permits, Generally

Note: the following information about contested case procedure can be a bit confusing. EGLE provides a helpful flowchart on their website [here](#) that may help the reader follow the order of events in a Part 13 permit contested case.

- Part 13 permits follow the procedure laid out at MCL §§ 24.271-24.288. Most relevantly, MCL 24.288 provides:

In a contested case regarding a permit, as that term is defined in section 1301(g) of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.1301, the designation of a presiding officer, the effect of a decision by a presiding officer, the availability of other administrative remedies, and judicial review are controlled by sections 1315 and 1317 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.1315 and 324.1317.

- Section 1317, in turn, provides the procedure for such contested cases:¹⁵

In a contested case regarding a permit, an administrative law judge shall preside, make the final decision, and issue the final decision and order for the department. Any party to the contested case, including the department, may, within 21 days after receiving the final decision and order, seek review of the final decision and order by an environmental permit panel by submitting a request to the director and a notice to the hearing officer.

MCL 324.1317(1).

- A decision under a contested case pursuant to this section may be reviewed by the filing of a petition by a party to the contested case. Those appeal proceedings are laid out at MCL 324.1317(2)-(7).
- The 60-day time limit seen with contested case proceedings under other permits (e.g. the Part 632 permit) also applies here by way of MCR 7.119(B)(1), which provides:

Judicial review of a final decision or order shall be by filing a claim of appeal in the circuit court within 60 days after the date of mailing of the notice of

¹⁵ Section 1315 (MCL 324.1315) provides a procedure for permit review that can only be initiated by the permit applicant/permittee.

the agency's final decision or order. If a rehearing before the agency is timely requested, then the claim of appeal must be filed within 60 days after delivery or mailing of the notice of the agency's decision or order on rehearing, as provided in the statute or constitutional provision authorizing appellate review.

(emphasis added).

ii. Contested Cases for Part 301 Permits

- Statute provides an opportunity to initiate a contested case, as follows:

If a person is aggrieved by any action or inaction of the department, he or she may request a formal hearing on the matter involved. The hearing shall be conducted by the commission in accordance with the provisions for contested cases in the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

MCL 324.30110(2).

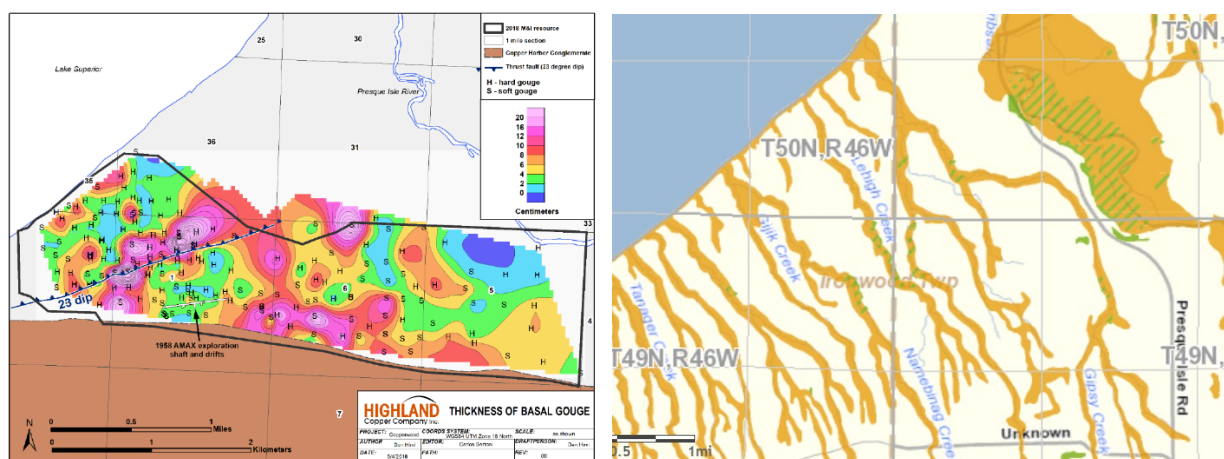
- Part 13 contested case procedure, discussed above at section II(D)(4)(i), is followed.
- Any new Part 301 permits issued will be subject to contested case procedure. *See section II(G) below for information.*

E. Part 303 – Permit for Dredging, Filling, or Other Activity in Wetland

1. Overview

- A Part 303 Wetland Permit allows for dredging, filling, or other activities in wetland areas. MCL 324.30304.
 - Since a permit is required to “[c]onstruct, operate, or maintain any use or development in a wetland” (*Id.* at (c)), and the Copperwood Project covers some wetland area (see [this](#) interactive map from the state) a valid Part 303 permit *must* exist for mining operations to begin.

Figure 7.7: Thrust Fault and Basal Gouge Thickness



Left: a map showing the outline of the proposed Copperwood project area (black line)

Right: a map from the state government showing the wetland areas in roughly the same township/range area. Green (and green/orange stripe) shows “wetland” per the definition at MCL 324.30301(1)(n). Orange shows soil that includes wetland/hydric soil, per the definition at MCL 324.30301(1)(e).

2. United States Corp of Engineers Involvement in Part 303 Permits

- Certain activities allowable under a Part 303 permit must also be approved by the United States Army Corp of Engineers (USACE) when those activities are located in areas within federal control; i.e. navigable waters. See MCL 324.30304(b) and 33 USC § 1344(g)(1).
 - These areas include Lake Superior and any wetlands adjacent to it (i.e. directly adjacent to or connected to by other navigable bodies of water, see *Solid Waste Agency v United States Army Corps of Engineers*, 531 US 159; 121 S Ct 675; 148 L Ed 2d 576 (2001)).
 - As of July 2022, the USACE does not appear to have determined that any navigable waters exist on the Copperwood property. See [this](#) navigable waters list, available from the USACE website [here](#).
- The overlapping jurisdiction can become complicated; however, much confusion is avoided by the fact that Part 303 permits are applied for using a joint EGLE/USACE application, which consolidates permitting into a single process.¹⁶
 - Thus, while the USACE may hypothetically have some jurisdictional authority, procedural matters are dealt with through EGLE.

3. Status

- See section II(G) below on the joint permit issued to CRI under Parts 301, 303, and 325.

¹⁶ See EGLE/USACE Joint Permit page on EGLE’s website [here](#) for more information.

4. Part 303 Permits and Public Involvement

- A public hearing may be held within 60 days after the submission and receipt of a permit application. MCL 324.30307(1). A public hearing is not required unless one of the following occurs:
 - The department determines the permit is of significant impact so as to warrant a public hearing, or
 - “[A] person requests a hearing in writing within 20 days after the mailing of notification of the permit application....” *Id.*
- Since any person can be on the mailing list for notifications of permit applications (in fact, a list of public notices is maintained in EGLE’s [MiEnviro Portal](#)), it appears that any person can request a public hearing.

5. Challenges to Part 303 Permits – Contested Cases

- Being a type of Part 13 permit, Part 303 permits follow the contested case procedure laid out above at section II(D)(4)(i).¹⁷
- Contested cases for Part 303 permits are authorized by MCL 324.30319(2), which provides:

If a person is aggrieved by any action or inaction of the department, the person may request a formal hearing on the matter involved. The hearing shall be conducted by the department pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.¹⁸

- Any new Part 303 permits issued are subject to this contested case procedure. *See section II(G) below for information on the potential for new Part 303 permits.*

F. Part 325 – Bottomlands Permit

1. Overview

- A Part 325 Bottomlands Permit is required to “[c]onstruct, dredge, commence, or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection of the waterway with any of the Great Lakes...” or to “[d]redge or place spoil or other material on bottomland.” MCL 324.32512(1)(a) and (c).

¹⁷ As it currently stands, Copperwood is not pursuing a Part 303 permit that would invoke the jurisdiction of the USACE. If they did, however, a “general permit” could be issued in agreement between both the state (EGLE) and federal (USACE) governments. MCL 324.30304b. A general permit under Part 303 provides the opportunity for a contested case hearing. MCL 324.30313(a).

¹⁸ The term “formal hearing” as it appears in this statute is synonymous with “contested case,” as evidenced by subsection (3) of the same (MCL 324.30319(3)), which refers to “[t]he award of costs in a contested case under this part and the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328....”

- Part 325 permits, like certain Part 303 permits, involve concurrent jurisdiction of both EGLE and the USACE. MCL 325.32512; 33 USC 403.
 - Also, as with certain Part 303 permits, a joint EGLE/USACE permit application is used to apply for Part 325 permits. Thus, while the USACE may have some jurisdictional authority, procedural matters are dealt with through EGLE just like with other state-issued permits.

2. Status

- *See section II(G) below on the joint permit issued to CRI under Parts 301, 303, and 325.*
 - In brief, although Copperwood did apply for a Part 325 permit in order to construct a water intake structure at Lake Superior, CRI ultimately opted to utilize a different water collection method and withdrew their application with the USACE. **See FS Table 20.1.**

3. Part 325 Permits and Public Involvement

- Comments on a Part 325 permit application can be submitted in the MiEnviro Portal.
- While the department *may* hold a public hearing, one is not required to be held unless requested by local government, adjacent riparian landowners, or the local dept. of community health. MCL 324.32514(1). The department may also choose to hold a hearing if the comments submitted indicate significant public interest or other circumstances that would render a public hearing beneficial. See Mich. Admin Code R 322.1017(1).

4. Challenges to Part 325 Permits – Contested Cases

- Mich. Admin. Code R 322.1017(2) provides that “[p]ersons aggrieved by an action or inaction of the department may request a formal hearing on the matter, pursuant to the [APA].” This “formal hearing” is a contested case.
 - APA contested case procedure, discussed above at section II(B)(4), is followed.¹⁹
 - A new Part 325 permit that is issued will be subject to contested case procedure; however, it is doubtful that Copperwood will be applying for any. *See section II(G) below for information.*

¹⁹ Part 325 permits are unique in that while they are Part 13 permits, the ability to petition for a contested case is not provided for in statute (but rather in administrative code). As a result, the standard APA contested case rules apply, not those at MCL 324.1317.

G. Joint Permit Under Parts 301, 303, and 325 – Permit #WRP013721

1. Overview

- A joint permit under multiple Part 13 permit types can be issued for a particular development or project. MCL 324.1309. This generally occurs when a planned activity(s) is regulated by multiple permits.
- On October 16, 2018, Copperwood was issued a permit (the “joint permit,” [permit #WRP013721; Ex. 8](#)) under the following parts:
 - Part 301 – Inland Lakes and Streams;
 - Part 303 – Wetlands Protection; and
 - Part 325 – Great Lakes Submerged Lands.
- Notably, this permit allowed for the construction of a water intake pipeline to Lake Superior for the purpose of supplying water to the mine. *Id.* However, this water intake plan was never initiated as Copperwood seems to be planning to utilize a surface water recovery method instead (**FS 18.10.3**), and Copperwood withdrew their USACE permit application (which would have been required, see section II(F) above).

2. Status

- Permit #WRP013721 expired on October 16, 2023. **Ex. 8, p. 1.**
 - That being said, it appears that certain activities authorized under the permit are allowed to continue through August 2024.
- Which of the three permits (Parts 301, 303, and 325), if any, will Copperwood need to apply for going forward?
 - Part 301 – any continued work (alteration, rerouting, etc.) on any of the multiple streams on the Copperwood property would require a new Part 301 permit. Although one cannot be certain when such work will be pursued, it is a reasonable assumption that it will occur at the absolute latest when construction of the tailings facility, which will require additional stream relocation, commences. **FS 18.10.5.**
 - Part 303 – considering the extent to which wetlands cover the area which Copperwood seeks to develop, it seems impossible that they could do so without having a Part 303 permit in place. Thus, chances are that CRI will be applying for a new Part 303 permit in the near future.
 - Part 325 - without the pipeline proposed in permit # WRP013721, no Bottomlands permit would be required.

3. Upcoming Opportunities Pertaining to the Joint Permit

- Because the joint permit has expired and any additional permitting under its Parts will be considered “new” permits, at this time there is no further action to be taken in relation to permit #WRP013721.
 - However, actions may be taken in relation to any new permits under Parts 301, 303, and 325; see corresponding sections above.

H. Part 315 – Dam Construction Permit

1. Overview

- A Part 315 permit (issued pursuant to MCL 324.31509, Part 315 Dam Safety, NREPA) is required for the construction, alteration, repair, etc. of a dam.
 - Copperwood plans to use a dam at its tailings facility, and possibly for surface water collection as well. **FS 18.10.3.**

2. Status

- On November 9, 2018, a Part 315 permit was issued to Copperwood – [Permit #WRP01385 \(Ex. 9\)](#). This permit is for a conceptual design for the tailings dam.
 - A Part 315 permit requires an extension every two years. One was granted in October 2020, extending the expiration date to November 9, 2022. [Ex. 10, 10/05/2020 Email re: Part 315 Permit Extension](#).
 - Notes on the MiEnviro portal pertaining to this document indicate that the permit was extended to be effective until October 16, 2023. See also **Ex. 4**.
 - In September 2023, Copperwood requested an additional extension via email, which would push the expiration date to October 16, 2025. That email exchange, nor any other document (as of early March 2024), indicate whether or not the extension has been granted.
- Copperwood will need to submit their final engineering plans in order to begin construction. **FS Table 20.1; 2018 Amendment to Part 632 Permit, p. 2.**

3. Upcoming Opportunities for Public Involvement

- Although a public comment period does open following the submission of an application for a Part 315 permit, once a permit is approved there are no subsequent opportunities for the public to comment. Unfortunately, since Copperwood's Part 315 permit is already approved, this means there are no options for public involvement.

4. Upcoming Opportunities for Challenge – Contested Case

- Part 315 permits follow the contested case procedure laid out above at section II(B)(4).
- A chance to petition for a contested case is provided at MCL 324.31526(1), which states:

A person aggrieved by any action or inaction of the department under this part or rules promulgated under this part may request a hearing on the matter involved. The hearing shall be conducted by the department in accordance with the provisions for contested cases in the administrative procedures act of 1969.

- Unfortunately, as discussed in regard to public comment on a Part 315 permit, the fact that the permit has already been issued to CRI means that there is likely not going to be an upcoming opportunity for a contested case.
-

III. FEDERAL PERMITS

A. USACE-Issued Permits

1. Wetland Permits

- See information on USACE-issued permits for activities in wetlands at section II(E)(2).

2. USACE Jurisdiction Over Copperwood's Water Intake Reclamation

- The 2018 amendment to the Part 632 mining permit issued to CRI imposed additional requirements on the company. Notably, condition #O14A states:

Infrastructure constructed as part of the make up water supply shall be reclaimed as approved by the United States Army Corps of Engineers (USACE) and the DEQ, unless the permittee enters into an agreement with another party in which a property end use is established that includes beneficial use of the water supply infrastructure, and the party assumes the responsibilities for maintaining the system.

2018 Amendment to Part 632 Permit, pp 1-2.

- As it currently stands, Copperwood plans to use reclaimed precipitation and run-off water from the TDF area. **FS 18.10.3.**
 - Although these sorts of reclamation efforts are not expected to begin until around the time of closure of the mine (estimated to be from 2037-2038, **FS 22.3.3**), it is worth noting, since plans for reclamation may be discussed at the time that the infrastructure is constructed.
 - Such plans may take the form of amendments or supplemental materials filed with EGLE in relation to the Part 632 permit.

B. Explosives Handling Permit

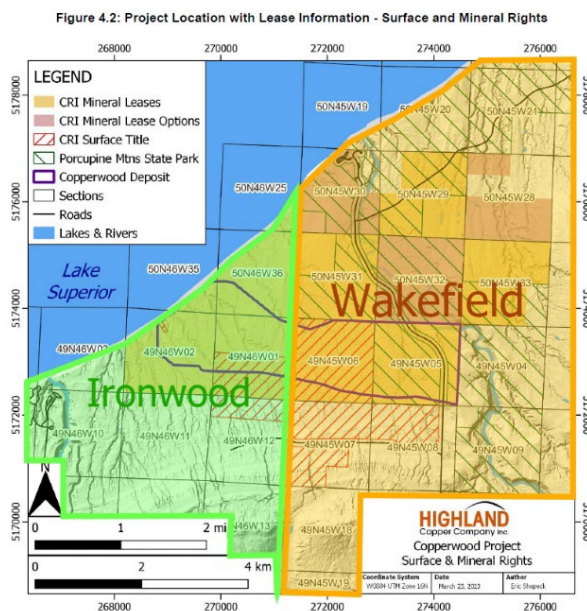
- While much of the permitting for the Copperwood mine is handled at the state level, one important exception is those permits required in connection with the explosives used in mining operations.
 - The state of Michigan as well as the federal Bureau of Alcohol, Tobacco, and Firearms (ATF) require permits for obtaining, transporting, and utilizing explosives.
 - ATF permits are generally needed in cases where large amounts of explosives are used or stored, and/or when explosives are moved across state lines. 27 CFR § 500 *et seq.*
 - Unfortunately, the application process for an ATF explosives permit does not provide an opportunity for public comment. See 72 CFR § 555.49.

IV. LOCAL PERMITS

In addition to those permits required by the state and federal governments, permits issued by local governments are also required. Permits will be needed from Gogebic County, and from Wakefield and/or Ironwood Townships. This is not intended to be a complete list of all permits CRI may need from local authorities over the entire course of operations, but rather highlights those most likely to be required in the coming months to years. Because of some of the conditions imposed by the local governments, it appears unlikely that any such permits have been issued to CRI at this time.

A. Municipal Jurisdiction

- As seen in the figure below (sourced from the Feasibility Study and altered by adding an overlay; also included in the “Introduction” section of this report), the Copperwood project’s site covers multiple sections across multiple townships. The border between Wakefield and Ironwood Townships, at the T49/T50 latitude where the Copperwood project is located, falls between Range 45 and Range 46. Thus, the Copperwood site is divided as shown below.



In other words, land within T49N R46W and T50N R46W is part of Ironwood Township, while land within T49N R45W and T50N R45W is part of Wakefield Township.

Activities completed by Copperwood at a given location would need to be authorized by the township whose jurisdiction applies; activities that utilize land within both townships’ jurisdictions would need to be authorized by both townships.

B. Gogebic County Permits

1. Road Permits

- According to the Feasibility Study, upgrades to the main access road to the Copperwood site (County Road 519N) will be necessary, and Copperwood plans to work with the Gogebic County Road Commission (GCRC) on the project. **FS 18.2, 18.3.1.**

- In addition to the main road, Copperwood is going to need multiple site roads (***Id.*** **at 18.3.2**). Any construction, operation, use, or maintenance of land within a county right-of-way requires a permit to be approved by the GCRC; an application for that permit can be found [here](#).

2. Moving Permits

- The GCRC requires any person using their roads to transport oversized or overweight vehicles to first obtain a transportation permit.
 - Since such activities are generally inherent to large construction processes, Copperwood will likely need to obtain a “Building and Special Move,” a “Single Move,” and/or an “Extended Transportation” Permit from the county; applications for all three of those can be found on GCRC’s website, [here](#).

3. Soil and Erosion Control Permit

- The NREPA requires that any person carrying out an “earth change” (alteration to the land which may result in or contribute to erosion or water sedimentation) that is larger than one acre in size and/or is within 500 feet of a lake or stream first obtain a Soil Erosion and Sedimentation Control (SESC) permit. MCL 324.9101 and 324.9112, Part 91 Soil Erosion and Sedimentation Control, NREPA.
 - Although a SESC is not needed for the act of mining itself, one is still needed for all qualifying earth changes associated with developing a mine such as creating access roads, grading land, removing topsoil, etc. MCL 324.9115.
 - The responsibility of granting SESC permits, unlike with other permits authorized by the NREPA, is delegated to counties. MCL 324.9105(1). The counties, in turn, delegate the responsibility to an agency or a conservation district. MCL 324.9105(2).
 - Gogebic County has established a conservation district (the Gogebic Conservation District) and an enforcement agency (the Gogebic County Soil Erosion and Sediment Control Enforcing Agency) for this purpose. Their (joint) website can be found [here](#).
 - An application for a SESC permit can be found [here](#).

C. Ironwood Charter Township Permits

1. Ironwood Charter Township’s Zoning Ordinance

- All of the land located on the “Ironwood side” of the Copperwood site is zoned as Recreational, Agricultural, and Forestry” (RAF) district. See zoning map (sourced from Ironwood Township’s [website](#)) [here](#).
 - According to the [Ironwood Township Zoning Ordinance](#) (“ITZO”), the primary purpose of the RAF district is “to promote the proper use, enjoyment and

conservation of the natural and other resources of the Township, peculiarly adapted to recreational and agricultural uses and/or forest industries.” **ITZO p. 27, “District Purpose.”**

- Non-ferrous metallic mineral mining authorized by EGLE under part 632 of the NREPA is a permitted use; i.e. no permits are needed from the township for mining. **Id. at p. 27, Permitted Use O.**
 - Additionally, the dimensional requirements re: lot area, building size, etc. that generally apply to projects in the RAF district do not apply to metallic mining operations. **Id. at p. 28, requirement I.**
 - However, any construction project planned for the RAF district is subject to site plan review and approval by the Zoning Administrator, and, at the discretion of the Zoning Administrator, the Planning Commission. **Id. at p. 28, req. H.**
 - According to the zoning ordinance, “[s]ite plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary State and Federal permits before final approval is granted.” **Id. at p. 53.**

2. Lake Superior Setback

- The ITZO states that all roads must be set back at least 150 feet from the high-water mark of Lake Superior and all structures must be set back at least 50 feet from the top bluff line of Lake Superior, unless formal approval from the Planning Commission is granted. **ITZO, art. V, p. 29.**
 - The current plan for the Copperwood site does not have any roads or structures within this setback area, but if CRI changes their plans regarding water-intake, this may change. **FS fig. 18.1, sec. 18.10.3.**

D. Wakefield Township Permits

1. Wakefield Township’s Zoning Ordinance

- All of the land located on the “Wakefield side” of the Copperwood site is zoned as “Natural Resource District” (NRD). See zoning maps [here](#) (T49N R45W) and [here](#) (T50N R45W); maps are sourced from Wakefield Township’s website [here](#).
 - According to the [Wakefield Township Zoning Ordinance](#) (“WTZO”), the NRD is “designed to promote the proper use, enjoyment, and conservation of the forest, water, land, topographic, geologic, historic and other natural resources of the Township, peculiarly adapted to recreational, agricultural and/or resource extraction industries.” **WTZO sec. 5.1.**
- As per the WTZO, “all minerals or other natural resource extraction operations” occurring within the township require site plan review and approval. **WTZO sec. 8.2.**

- Virtually any alterations to the land or any construction activities are prohibited prior to site plan approval. **Id. at 8.3.**
- **WTZO 8.4** provides that “[p]rior to voting on a final site plan, the Planning Commission shall hold a public hearing so as to facilitate public review and understanding of the development proposed.” (emphasis added).
- Site plan approval in Wakefield Township, in the case of phased development, must be completed for each phase of construction, and each approval is only valid for two years if permittee is not actively performing construction. **Id. at 8.7(1)-(2).**

2. Permits

- The WTZO requires the following permits in the NRD:
 - A conditional use permit if the property is to have more than one accessory building. **WTZO 5.4(A).**
 - A zoning permit for cargo containers if they exceed 200 square feet. **Id. at 5.4(B)(2)-(3).**
 - A conditional use permit is required if an access road or driveway is to be within 100 feet of the high-water mark of a body of water (i.e. Lake Superior). **Id. at 5.8.**
 - That being said, Copperwood’s current plan does not appear to have any planned roads that would meet those criteria (see FS Fig. 18.1).
 - In Wakefield Township, all zoning and conditional use permits must be applied for by following the procedures set forth under **WTZO 7.2(A)**
 - The issuance of such permits *may* be subject to a public hearing – a public hearing may be requested by the zoning administrator, planning commission, the applicant, or a landowner/occupant of a structure w/in 300 feet of the property. **Id. at 7.2(B).**
 - That being said, an opportunity for public comment is always available prior to the issuance of a conditional use permit. **Id.**
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V. OTHER ISSUES

A. Potential Future State-Issued Permits

The following permits are not required to begin construction or for Copperwood's Part 632 permit to be effective, but they may become necessary at some point in the future if mining operations do successfully commence. This is by no means a complete list; rather, it includes permits that are most likely to be needed based on information from the Feasibility Study.

1. Part 55 Air Permit to Operate

- As discussed in section II(C)(1) above, the Part 55 permit issued to Copperwood is only for installation of a pollutant-emitting device, not for actual operation.
 - Once construction begins, a Part 55 Permit to Operate will be needed. (MCL 324.5506)
 - Public notice and an opportunity for public comment and public hearing must be provided prior to issuance of permit. MCL 324.5511(3).
 - A list of renewable operating permits up for public comment is available [here](#) (click "ROPs in Public Comment..." link in the "Public Notice" section).

2. Storage Tanks Permits

- In Michigan, the storage of hazardous materials and of waste is regulated by a complex system of both state and federal law. However, generally speaking, storage activities conducted in connection with mining operations are overseen by EGLE and/or the Storage Tank Division of the Bureau of Fire Services. See MCL 29.461.
 - As provided in the Part 632 permit's "Special Permit Conditions" (B)(4) through (B)(6), all aboveground tanks used for storing flammable or combustible materials must be approved by EGLE and must be kept up to the standards set forth by the Michigan Fire Prevention Code.
 - Information on aboveground storage tanks and permitting can be found on the Storage Tank Division's website [here](#).
 - Of relevance, CRI plans on keeping two aboveground, 10,000-liter storage tanks for diesel on-site. **FS 18.8**. While such tanks are subject to thorough regulation and oversight (see Mich. Admin. Code R 29.5654), there does not appear to be an opportunity for public input on the matter.
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VI. CONCLUSION

A. Upcoming Opportunities to Take Action

- Copperwood's joint permit under Parts 301, 303, and 325 has expired, and new ones will be needed in the coming months:
 - A Part 301 permit will be needed when Copperwood does anything that would divert or alter any of the streams on the property.
 - When a Part 301 permit is applied for, anyone may comment publicly on the application.
 - A Part 303 permit will be needed if Copperwood develops any of the multiple wetlands located on the property.
 - When a Part 303 permit is applied for, anyone may comment publicly on the application. If the application garners enough interest or public concern, EGLE may elect to hold a public hearing on the matter.
- Copperwood's Part 31 NPDES permit is set to expire later this year, and their deadline to apply to renew it is April 4, 2024.
 - If/when they do reapply, any person may submit a public comment through the MiEnviro Portal. If the application garners enough interest or public concern, EGLE may elect to hold a public hearing on the matter.
- Copperwood's Part 55 permit renewal is still pending, but when it is processed there will be an opportunity for public comment announced via a public notice.
 - If requested via public comment by a date specified in the public notice, EGLE will hold a public hearing.
- Finally, it does not appear that CRI has obtained any of their local permits, as many such permits require that site plans be finalized and/or state-issued permits be secured before their issuance. However, be aware that if and when those conditions are achieved, CRI will likely begin the process of obtaining their local permits.
 - Unfortunately, Gogebic County, Ironwood Township, and Wakefield Township do not have any publicly accessible databases regarding their permitting information in the same way that the state does.

B. Get Involved!

For Permits Under Parts 31, 301, 303, 315, and 325

- Local landowners and other people who are interested in receiving updates on many of Copperwood's state-issued permits can sign up [here](#) in the MiEnviro Portal by following these steps:
 - 1) Click the above link or visit
mienviro.michigan.gov/ncore/external/subscriptions/signup
 - 2) Enter your email address and click "submit"

- 3) Click the link sent to you in the confirmation email
 - 4) Under the “I want to get alerts pertaining to...” heading, select all three check boxes: “Public Notices going into effect,” “Permits issued/denied,” and “Applications Received”
 - 5) Under “Programs I am interested in,” click the drop-down menu and select “AQD-Air,” “WRD-Groundwater,” “WRD-NPDES,” and “WRD-Resources”
 - 6) Under the “My geographic area of interest includes...” drop-down, select or type “Gogebic”
 - 7) Click save!
- You can change your preferences or opt out of notifications at any time by following steps 1-3, and then changing your selections or clicking “Unsubscribe From All” at the bottom of the page.

For Permits Under Part 55

- For Part 55 Air Permits to Install, EGLE maintains a list of applications that are open for public comment on their website. This list is updated every Monday, and the most recent version can be found at this [link](#) by clicking on “Applications Open for Comment” under the Permits to Install public notice category.²⁰
 - That document will have information on the permit (some of which is often available in Spanish and/or Arabic too) as well as on how to submit a comment.
 - The final page of that document will have information on how to submit comments via other methods; a copy of this information is attached here as [Ex. 11](#).

Other Resources

- [“Public Hearings: What You Should Know”](#) – informational handout from EGLE. This two-page document provides an overview of what matters can and cannot be discussed at public hearings, and includes instructions on how to make a comment during a hearing.
 - [EGLE’s Public Comment Calendar](#) – calendar of current and upcoming public comment periods, many of which do not appear in the MiEnviro Portal.
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²⁰ EGLE is in the process of importing Part 55 permitting information into the MiEnviro Portal, similarly to how Parts 31, 301, 303, etc. permitting is currently handled. Currently, Part 55 permitting info is found on EGLE’s website [here](#), but MiEnviro users have the option to sign up to receive Part 55 notifications (using the process above) when they become available.

SOURCES

Although all of the sources cited in this report are public record, some are easier to access than others. Those which can be accessed online from their original publisher have links thereto, but those that cannot be accessed so easily have been uploaded to a [google drive](#) and are cited as exhibits.

The sources of those exhibits are as follows:

- **Exhibits 3, 5, 6, 7, 8, 9, and 10** – accessible through the [MiEnviro Portal nSITE Explorer](#); EGLE maintains its publicly-accessible documents related to most permitting in this database.²¹ Generally speaking, documents are assigned to a single “site” for which a permit (or series of permits) is issued. These exhibits are assigned to the “Copperwood Mine” site; each document’s file name within the database is as follows:²²
 - **Ex. 3** – 5. Alt Analysis report rev6-7-18_v1.pdf
 - **Ex. 5** – Keweenaw Bay Indian Community comments regarding Copperwood Mine Project NPDES permit reissuance.pdf
 - **Ex. 6** – Warren Swartz - Response to KBIC Comments - Copperwood Mine Permit.pdf
 - **Ex. 7** – NPDES Permit - FINAL_Copperwood Mine.pdf
 - **Ex. 8** – DEQ permit WRP13721 Copperwood Resources final permit.pdf
 - **Ex. 9** – WRP013851 - Copperwood Mine.pdf
 - **Ex. 10** – Part 315 Permit Extension.pdf
- **Exhibits 1 and 2** – these letters from the KBIC were obtained directly from the community. These documents were formerly accessible through the [“Copperwood Project” page](#) of KBIC’s Natural Resources Department’s website, but the links are no longer active.
- **Exhibit 4** – email forwarded to F. Michelle Halley.
- **Exhibit 11** – “submitting comments” information that is included at the end of each week’s list of Part 55 permits open for public comment, see [here](#).

²¹ A note on using this database: the nSITE Explorer website is often *very* slow; it is recommended that, when viewing a list of documents, users set the page to display 50 or 100 rows at a time to decrease the number of times the page will need to load.

²² There are multiple “sites” connected with the Copperwood Project: some include “Copperwood Mine,” “Orvana Resources-Wakefield Twp.,” “Copperwood,” “Copperwood Project-Ironwood: 11-27-0027-P,” etc. All of those exhibits used in this report come from the “Copperwood Mine” site, but be aware that not all relevant documents are included in that site’s documents.