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## **Q & A - Summary Report dated December 1, 2021**

Application by Great Lakes Exploration Inc. for Direct Lease of Metallic Mineral Rights

### **PUBLIC MEETING SUMMARY**

#### **Site Visit-Survey concerns:**

Q. Has the DNR made a site visit to the proposed lease area? If so, when, and is a public report available?

A. No site visit was made specifically in response to this mineral lease application; however, DNR staff have been to these sites many times as part of the DNR's standard land management efforts. Additionally, local knowledge, and database information, were used to complete the application review and make assessments.

The parcel classification report is available on the DNR Minerals Management website at:

[www.michigan.gov/documents/dnr/GrtLksExMenomineeParClass\\_739062\\_7.pdf](http://www.michigan.gov/documents/dnr/GrtLksExMenomineeParClass_739062_7.pdf)

If the parcels are leased and a surface use permit is applied for, an application-specific on-the-ground survey may be conducted at that time.

#### **Public comments concern:**

Q. What is the deadline for public comments?

A. The deadline for public comments was Thursday, November 11, 2021.

#### **Local ordinance authority concern:**

Q. Does a local ordinance supersede state regulations?

A. If a lease were issued, further permissions would be required from local, state and/or federal authorities before any invasive exploration or development activities could occur. Applicable local, state, and/or federal regulations would be dependent upon the type of invasive exploration or development activities proposed. Determining which regulations apply would be done on a case-by-case basis based on the specific details of the proposed activities.

#### **Local Infrastructure concerns:**

Q. If a lease is granted, who is responsible for the taxable value of buildings, road maintenance, fire and EMS response, and transportation, handling and potential clean-up of chemicals?

A. Any proposed use of the surface of state-owned land would be subject to review, approval, and applicable requirements for maintenance and safety. Additionally, any potential development and use of infrastructure would be subject to applicable local, state and/or federal regulations. For example, new construction of buildings and roads may require permits from the Department of Environment, Great Lakes, and Energy (EGLE) depending on the location and extent of the construction activities. If drilling activities are proposed, the access route to a



drill site is required to be disclosed in a Mineral Wells permit application and potential impacts and mitigation of impacts are considered in the permit application review process. Michigan’s Part 5 Administrative Rules contain spill prevention, containment, and notification requirements for the storage of salt, oil, and other regulated polluting materials that are determined based on the type and volume of materials being stored. Transportation of hazardous materials is regulated by the Michigan State Police.

**Financial Assurance concern:**

Q. Please explain the financial assurance plan for the lease under consideration and the leasing and permitting standards required.

A. Before a mineral lease is executed for any state lands, the lessee shall file a performance bond acceptable to the State of Michigan (Lessor). The amount of performance bond, maximum acreage covered is listed, below. How the bond may be drawn upon is specified by the Lessor.

Amount of Bond	Maximum Acres
\$10,000	0 - 500
\$20,000	501 - 2,000
\$30,000	2,001 - 5,000
\$40,000	5,001 - 10,000
\$50,000	10,001 - Unlimited

The Lessee must provide one of the following for the Mineral Lease Performance Bond:

- Cash Bond
- Certificate of Deposit
- Irrevocable Letter of Credit
- Surety Bond (PR3402) – Available at [www.michigan.gov/minerals](http://www.michigan.gov/minerals).

The State of Michigan metallic mineral leases also require the lessees to maintain commercial general liability insurance on an “occurrence basis” listing the Lessor as a certificate holder and named as an additional insured.

The lessee is required to provide Lessor with a certificate of insurance evidencing minimum policy limits of \$1 million per occurrence and \$2 million general aggregate limit. If providing an umbrella or excess liability insurance, the minimum limit is \$5 million. The lessee must also provide proof of worker's compensation insurance, as required by law, with a waiver of subrogation, except where a waiver is prohibited by law. The companies issuing such policies are also required to furnish to Lessor written notice thirty days prior to cancellation, termination, or other change of any such insurance.

Further, an approved surety or security bond must be filed with EGLE’s Oil, Gas, and Minerals Division (OGMD) as part of a permit application to drill a test well that is 50 feet or greater in depth from the surface and encounters bedrock. The bond amount is specified in the Mineral Wells regulations and determined by the depth of the drill hole. A test well drilled in an area of



the state where rocks of Precambrian age directly underlie unconsolidated surface deposits is not subject to permits or bonding.

Additionally, a surface use permit or surface use lease may be required depending on the exploration or development activities proposed. DNR permits and surface use leases require additional fees, and insurance and bonding requirements, depending on the nature of the surface use proposed.

**Webinar Attendance concern:**

Q. How many people attended this webinar?

A. A total of 43 attendees were present on the webinar; this number includes webinar panelists and organizers.

**Tribal concerns:**

Q. Has an archaeological and cultural site review been conducted by the DNR in consultation with the Menominee Indian Tribe to ensure identification and protection of these resources?

A. As part of future land use review of these parcels, the DNR will work with Tribal partners, including Tribal Historic Preservation Officer David Grignon of the Menominee Indian Tribe of Wisconsin, to assess survey needs and identify cultural resources needing protection.

**Threatened and Endangered Species concerns:**

Q. Has the DNR conducted a threatened and endangered species review of the proposed lease area?

A. Before any exploration activity can occur, an application for a use permit must be submitted to the DNR. As part of the use permit application review process, surveys may be conducted if there is a probability of finding a threatened or endangered species in the proposed area. The DNR has historic data from past finds to help guide the decision for whether a survey is needed.

**Public Notice & Direct Leasing concerns:**

Q. Was the public notice for the lease request for these parcels incomplete?

A. Yes. The original public notice published on March 25, 2021, inadvertently omitted the recommended parcel classifications for the nominated parcels. The public notice was republished on May 8, 2021, to include recommended parcel classifications and lands that were mistakenly omitted from the first publication.

**Test Wells/Holes concerns:**

Q. Who ensures that test wells are properly drilled, plugged, and abandoned, and why are they held in confidence for a time?

A. EGLE, OGMD staff provide regulatory oversight of test well drilling activities by conducting field reviews, inspections, and record reviews for compliance with Part 625, Minerals Wells, of the Natural Resources and Environmental Protection Act, 451 PA 1994, as amended. There is no record of previous exploration drilling within the parcels being considered in this lease



application. Records submitted for test well drilling for the specific purpose of discovering or outlining an orebody or mineable mineral resource are required to be held confidential until released by the owner or operator, or until the owner is no longer an active mineral producer, mineral lease holder, or owner of mineral lands in this state.

Q. Is the DNR aware that there are hundreds of Aquila company test wells yet to be plugged?

A. EGLE, OGMD administers the Minerals Wells programs. Minerals wells rules require that a test well is plugged from bottom to top with an approved plugging material, such as cement or cement grout. The owner/operator of a test well is required to file plugging reports with OGMD that includes information relative to the type and amount of plugging material (cement) used and other cementing operations details. There is no record of previous exploration drilling within the parcels being considered in this lease application.

Aquila Resources has publicly disclosed that over 700 drill holes have been drilled to advance the Back Forty Project since initial discovery in an area outside of the parcels being considered in this application. To date, over 80% of the completed test wells on record for the Back Forty Project have been reported to be plugged (cemented/grouted) in accordance with Mineral Wells regulations. Those test wells that have been identified as remaining open are being further evaluated by the well owner for a possible future purpose, such as conversion to piezometers for continued testing, conducting downhole surveys, or reentry to extend the drill hole to further explore the mineral resource. For test wells that remain open, surface casing is required to remain in place that extends above the ground surface and capped securely while not in use. The well owner is responsible for test wells drilled for exploratory purposes subject to Part 625, Minerals Wells, of the Natural Resources and Environmental Protection Act, 451 PA 1994, as amended.

**PFAS concerns:**

Q. Are PFAS substances used in the well drilling process?

A. The State of Michigan continues to evaluate potential sources of per- and polyfluoroalkyl substances (PFAS). EGLE will evaluate use of drilling aides for identified applications relative to PFAS concerns and will continue to follow the established ANSI standards and best drilling practices. EGLE will not permit a drilling program that is determined to cause PFAS contamination.

**Unmonitored Exploration concern:**

Q. Has the Aquila company been exploring this area?

A. While there is mineral potential in these areas, EGLE, OGMD has no record of previous exploration drilling and no discovered ore bodies within the parcels being considered in this lease application. Therefore, any exploration projects within these parcels would be in early stages of exploration.

**Back Taxes concerns:**

Q. Will the State of Michigan do business with a company that is delinquent on their taxes?



A. The Department's authority to enter into leases is found in the Natural Resources and Environmental Protection Act, a statute which states that the State may enter into contracts for the taking of coal, oil, gas, and other mineral products from State owned lands. Administrative rules also apply to the process and under those rules, any qualified party may submit an application for a metallic mineral lease. When the DNR receives an application, the first step in the decision process is to confirm that the lease applicant is eligible to lease State owned mineral rights. This is done by confirming with the Department of Licensing and Regulatory Affairs that the person is licensed to conduct business in the State of Michigan; require that they are a bonded party with the DNR, and third that they do not appear on the DNR's Hold Action List. If these application requirements are met, the DNR then moves the application forward in the application review process. Ultimately, the DNR's decision to approve or deny a lease application is based on review of multiple factors, including applicant eligibility, parcel classifications developed by the Department's resource specialists, public comment, and any other relevant factors.

**Parcel Review concerns:**

Q. Has the process for evaluating leases changed from the past and are mineral exploration and development activities inconsistent with current land uses?

A. The Department Policy and Procedure for Metallic Minerals Leasing (27.23-12) was last updated on July 1, 2021.

In considering applications for mineral leasing and potential mineral exploration and development activities, the DNR utilizes the parcel classification process to consider the potential effects metallic minerals exploration and potential development could have on current and future land uses and other resource values. The Department's resource specialists perform the parcel reviews and place the nominated parcels into one of four possible classifications: (1) leasable development, (2) leasable development with restrictions, (3) leasable nondevelopment, or (4) non-leasable. The classifications are applied to protect and mitigate impacts to the natural resource features identified on the parcels.

Depending on the classification applied, leasing subsurface mineral rights may have little or no impact on current surface use. For example, exploratory drilling or mineral development under one parcel may occur from a different parcel, therefore not disturbing the surface of the mineral leased parcel. Additionally, if the surface is leased for either exploratory drilling or mining operations, a further evaluation would be done at that time to reduce and mitigate any surface impacts.

**False Mineral Rights Claims concerns:**

Q. Have the false mineral rights claims by Aquila Resources, VMS Development Co., or affiliated or successor entities been researched and resolved by the DNR?

A. Yes. When competing claims were brought to the former DNRE's attention, the Department worked with the Attorney General's Office to further verify that the State held good title to the mineral rights that were at issue. After working with the Attorney General's Office to verify the State's title mineral rights, the DNRE directed that the parties making those claims to those State-owned mineral rights, disclaim all of those rights. On January 18, 2011, Aquila Resources



recorded a Notice of Mineral Lease Termination and Release with the Register of Deeds in Menominee County that relinquished all rights to the mineral rights at issue. In March of 2011, the DNRE requested clarifications and corrections from Aquila regarding the Notice of Mineral Lease Termination and Release. Aquila provided additional information to the DNRE at that time. In June 2011 the DNRE, separated into two separate Departments (DNR and EGLE), at that time the DNR acknowledged receipt of the information that Aquila provided and accepted the steps that were taken to correct the original Notice of Mineral Lease Termination and Release.

Currently, based on review and legal guidance provided to the Department, the DNR has concluded that the original competing claims made to the mineral rights identified in the November 2010 DNRE letter were meritless, and any subsequent claims made to the mineral rights based on the original meritless claims were also meritless. Therefore, the DNR believes that the state's ownership of these mineral rights is clear and valid. If any claims were made against these or other DNR-managed mineral rights in the future, the DNR would take necessary steps to verify and protect those state-owned mineral rights as appropriate.

**Mining Oversight concerns:**

Q. Who oversees, inspects, and regulates the work the mining company will be doing?

A. EGLE staff conduct inspections of permitted activities and respond to inquiries as necessary to check for compliance with applicable environmental regulations. OGMD staff conduct field reviews, inspections, and record reviews of test well drilling for compliance with Part 625, Minerals Wells, of the Natural Resources and Environmental Protection Act, 451 PA 1994, as amended.

**Commercial and Qualified Forestry Program concerns:**

Q. Will the proposed lease infringe on either the Commercial or Qualified Forestry programs?

A. The land area covered under the proposed lease is owned by the state. State land is not eligible for enrollment in the Commercial Forest or Qualified Forest programs, and therefore is not subject to the restrictions applicable to those programs nor benefit from the reduce taxes associated with the programs.