

# *Protect the Penokee Hills*



PROTECTPENOOKEEHILLS.ORG

# Ojibwe Country

The Bad River Band Of Lake Superior Chippewa is located on more than 124,000 acres of reservation land in northern Wisconsin on the south shore of Lake Superior (known by the Tribe as *Gichi Gamí*) and along the base of the Penokee Hills. Territory ceded by the Tribe to the U.S. government includes the upper one third of what is now the state of Wisconsin. The Bad River Band is one of six federally-recognized Lake Superior Chippewa or Ojibwe bands in Wisconsin. Reservation land was set aside for the Bad River Band in a treaty made with the United States and signed on Madeline Island on September 30, 1854. The treaty land included 200 acres on Madeline Island, which is the center of the Ojibwe Nation.

Much of the reservation lands (87 percent) have been maintained in an undeveloped and natural state, in similar condition when the Ojibwe settled here in the sixteenth century. The Ojibwe migration story tells of a search for a place where food grows on the water. That food is wild rice. Bad River is home to one of the largest wild rice beds in the Great Lakes. The nation's centuries-long search ended at the mouth of the Bad and Kakagon Rivers, now the northern border of the Bad River Reservation and is located in most of Ojibwe country today. Odanah (meaning *village*) was originally located at the confluence of the Bad and White Rivers. The area was originally known as *Gete Gititaaning* meaning *at the old garden*. This area is rich in topsoil due to the flooding of the rivers.

The Ojibwe Nation is one of the three largest native nations in North America. Ojibwe people are culturally known as hunters, fishermen and gatherers, travelling throughout their territory to collect each season's bounty. They are a patrilineal society meaning their clan or *dodem* membership is passed down through the father. A person's clan membership originally denoted what function in society the family and individual would fulfil. The primary clans surviving are the Crane, Loon, Eagle, Bear, Marten, Lynx, Bullhead, Sucker and Turtle. The original religious society is known as Midewiwin or Grand Medicine Lodge.

## TRIBAL SOVEREIGNTY

As a federally-recognized tribe, the Bad River Band is a sovereign nation. Tribal sovereignty is the basis of treaties signed with the U.S. government. And it is the political mechanism for government to government relations with federal, state and local institutions. For generations the Tribe has acted upon their sovereign right to protect and preserve the region's natural resources.



# *Proposed Penokee Mine*

Since 2010, Gogebic Taconite (GTAC), a subsidiary of Foresight Reserves, a mining company (Chris Cline is the majority owner) based in northern Appalachia and the Illinois Coal Basin, has successfully lobbied for state legislative support to construct what could become the world's largest open mining pit. This mine would be located along the Penokee range in northern Wisconsin, six miles from the Bad River reservation. The Band is certain to experience harmful impacts because the mine would be built at the headwaters of the Bad River and the Tyler Forks, both of which flow north into the Bad River reservation. The Bad River and Kakagon Sloughs is the largest and most significant wetland complex still remaining on Lake Superior.

The Tribe vehemently rejects the proposed mine because it would disrupt the Band's way of life as Ojibwe people, a traditional way of living that has been handed down from many, many generations. If GTAC is allowed to mine taconite (low-grade iron) from the Penokee Hills the entire ecosystem faces devastation. Today, the Penokee Hills provide fresh, clean water to the Lake Superior coastal wetlands. Open pit mining would pollute these waters. The sloughs, forests and habitat all depend on these fresh waters. Sustenance from hunting, fishing and harvesting wild rice (a critical food source and integral to tribal culture) would be lost as well. By diminishing the water quality and quantity the GTAC mine will threaten the Bad River Band's very existence.



MARY ANNETTE PEMBER

## DETAILED DEVASTATION

- Decreased water resultant from mining-related high capacity well withdrawals and mine dewatering
- Surface and ground waters polluted with sulfides, arsenic, mercury and lead
- Release of asbestos and ultrafine particulates into air
- Loss of wetlands
- Flooding as a result of wetland removal
- Increased and/or decreased sedimentation
- Water pollution from concentrations of ammonia and nitrate
- Contamination lowering life expectancy, increasing infant mortality and making food and water unsafe

# Threats to Treaty Rights

In 2013, lobbying efforts by GTAC to begin demolishing the pristine Penokee Hills paid off. The Republican-led legislature and Gov. Scott Walker received more than \$15 million in campaign contributions from special interests to pass a bill that was once defeated, putting GTAC on the fast track towards gaining full mining permits. In addition to conducting exploratory mining, granted by the Wisconsin Department of Natural Resources, the new law lets GTAC dump waste into ponds and streams and it allows the company to ignore required public hearings that would ensure that GTAC was in full compliance with all environmental laws. Even more disturbing, the law attempts to shut out a tribal voice.

## GOVERNMENT TO GOVERNMENT RELATIONS

Both international and federal law requires the federal government and state governments interact with tribes on a government to government basis and refrain from taking action that would adversely affect the tribe's right to its lands, territories and natural resources. This means Bad River and other Lake Superior Chippewa tribal nations have a sovereign right to participate in policy decisions regarding mining in the Penokee Hills. During the 2013 mining legislative process the Lake Superior Chippewa collectively explained that strong environmental protections were necessary to protect their peoples' health and their long-recognized property. But the Wisconsin legislature ignored their concerns, making the state's enactment of the law an openly hostile action. Clearly, the legislation was drafted to justify detrimental environmental effects to the life of the region.



## LETTER TO PRESIDENT OBAMA

In an August 29, 2013 letter to U.S. President Barack Obama the Bad River Band and five Lake Superior Chippewa tribes (Red Cliff, Lac du Flambeau, Lac Courte Oreilles Sokaogan Chippewa and St. Croix) argued that *the state of Wisconsin does not have the unfettered discretion to exercise its management prerogatives to the detriment of the tribes' treaty rights, and through legislation the state may not legislate away the tribes' treaty rights.*

The tribes also requested the Department of the Interior to prepare litigation to protect waters, wetlands, fisheries, wildlife, subsistence use and public uses in the upper and lower Bad River, Potato River and Tyler Forks watersheds of Western Lake Superior.

# Recognition and Support

For generations the Ojibwe have lived in balance and in harmony nestled between the Penokee Hills and the Bad River Wetlands. They have and continue to be diligent stewards of the region's natural resources.

## JOHN F. KENNEDY REMARKS

During a visit to northern Wisconsin in 1963, President Kennedy remarked that we should make sure to protect the natural lands and waters of the region. "The vast marshes of the Bad River are a rich resource providing a home for a tremendous number, and varied number, of wild animals," Kennedy said." In fact, the entire northern Great Lakes area, with its vast inland sea, its 27,000 lakes, and thousands of streams, is a central and significant part of the fresh water assets of this country, and we must act to preserve these assets."

## RECOGNITION AND ENDORSEMENTS

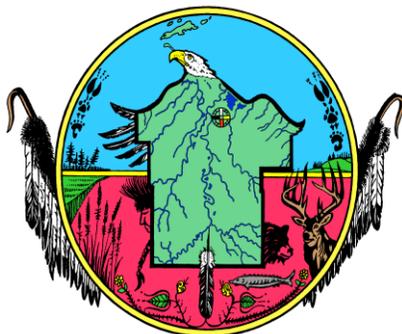
The Bad River Band's stewardship has since gained world recognition. In 1973, the Kakagon Sloughs was designated a National Nature Landmark. In 2012, The Ramsar Convention (an inter-governmental treaty that embodies the commitments of its member countries to maintain the ecological character of their wetlands) named the Kakagon and Bad River Sloughs on the shores of Lake Superior a designated site as a wetland of international significance. Ramsar praised the Bad River Band for their preservation and management of the region.

The Tribe's efforts to halt the proposed mine received an endorsement from the Sierra Club. The National Wildlife Federation, The Nature Conservancy and Earth First! have raised public awareness about the Tribe's grave concerns about the impact of mining the Penokee Hills.

Also, in a January 26, 2013 editorial the Milwaukee Journal Sentinel (two months before the mining bill was passed) raised concerns about environmental effects and the lack of public input on the proposed mine. *We also urge legislators to hold at least one more public hearing on the measure, this time somewhere close to where the mine will be built.*

## DEFEND THE BAD RIVER

The Bad River Band has established Defend the Bad River, a non-profit corporation chartered as a Resource Protection Fund. Defend the Bad River exists to receive individual and foundation contributions on behalf of the effort to stop the mining of the Penokee Hills.



THE BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA

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# Journey of Rocks

A MESSAGE FROM MIKE WIGGINS, JR.

CHAIRMAN OF THE BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA

*I can't remember who told us it would happen. I think a kid at school mentioned it. I looked at my cousins, Derek and Tim, and then down to the Mason jar stuffed full of leeches. We gathered close to that Mason jar. The leeches were a cross section of sizes and colors. All had once called the rocks and water of Denomie Creek home. That was until the day we invaded their world, overturned everything and plucked them from their rightful place.*

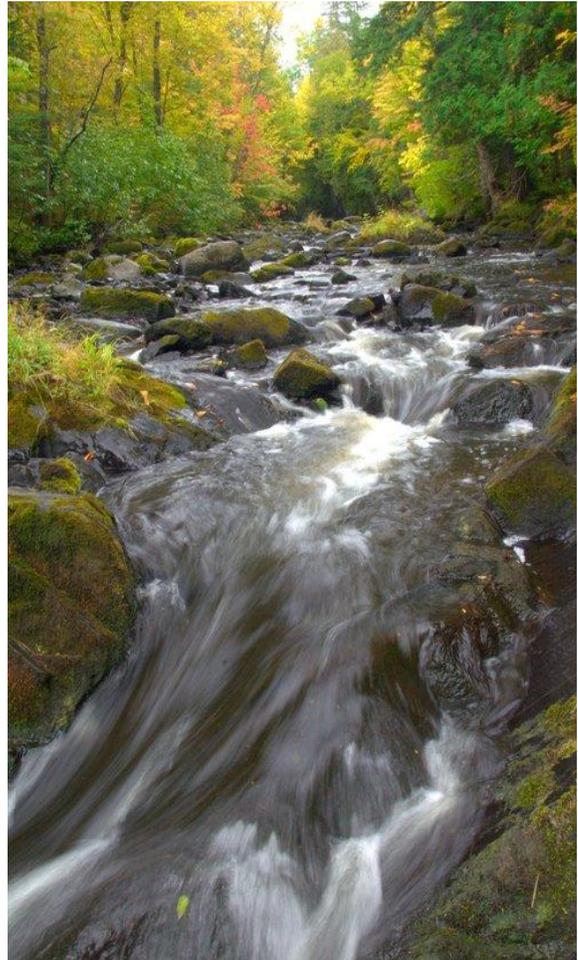
*Those rocks. Those rocks they are on a journey. All rocks are on a journey to big water. They have a spirit, a power, a mystery. Everything does. When you pick up those rocks make sure you put them back again. If you take those round ones, those grandfather stones, understand that you won't be able to keep them. Sooner or later the little people that made them will come and get them back from you. Watch, you'll see.*

*My cousins looked at me and I could tell by their eyes they were ready for our dark experiment to begin. I brought forward the shaker of Morton's salt and opened it up. Tim opened the jar of leeches and set the cap aside. I took the Morton's salt and emptied it into the jar. We put the cap back on, gave everything a shake and set the jar down on the table. Like a churning, writhing thing, the black mass started moving and whirling. Soon blood started to come forth.*

*Those red cliffs open up during the storms when the thunderbirds are in the sky. The little people come out and make those grandfather stones. They make those stones right here on the shore of Gitchigumi. They are sacred. All stones are sacred. Look at them in the water. They are different when they are under that clear water. If you grab one that you like because of the color, watch what happens when you pick it up and watch it dry. After it dries and in your hand it loses its luster. It belongs on that bed of rocks under the lake. It calls that bed home. Under that water, with those other rocks, is where it's supposed to be. Even in your hand, the spirit looks to leave, to go home. All rocks are on a journey to big water.*

*Soon lots of blood filled the jar. It became clear that the salt was burning and eating away at every leech in the jar. Blood filled the jar. Soon it was just a jar full of red with twinges of black here and there. I remember being fascinated and horrified at the same time. I remember wanting to make it stop.*

*There are rocks in the ground that will bleed. There are rocks in the ground that bleed. There are rocks in the ground that should never be moved. There are rocks that are home and all the things that they need to protect their spirit are provided for them.*



AZAEEL MEZA

*I looked at the Mason jar and at the faces of Derek and Tim. Rezboys know when the laws of Mother Nature are broken. It was evident. We put on brave faces but in our eyes the wrongness of what we did was evident.*

*The leeches were living beings and they had a spirit. I could see it in the jar. My cousins and I didn't know any better, we were just kids. That salt forced the spirit out of our waterborne captives. That salt was an agent of change upon exposure with the spirit in those leeches.*

*There are rocks underground that can never come into contact with air and water. Their time in the light of day has either passed or is not meant to be.*

*There are rocks in the ground that are home. Air and water are agents of change upon exposure with the spirit of some rocks. There are rocks in the ground that will bleed. The blood from an ancient spirit is powerful. So powerful that it will destroy just about everything that air and water love. The rock sends a message that the laws of Mother Nature were broken.*

*I took the jar full of leeches and salt and dumped it in the weeds back behind my house. When I dumped it on the ground I realized that the mass was still, after all, a bunch of leeches. Misplaced, dead, leeches. We were just kids we didn't know any better.*

*When these rocks come up, are dug up, are ripped out of the ground, they will bleed sulfuric acid upon exposure to air and water. Their pulverized remains will be dumped in some wet weedy area near their original home. There they will continue to bleed. The mass will still be, after all, a pulverized mass of rocks. Misplaced, dead, rocks. All rocks are on a journey to big water. Even rezboys know that.*



JOHN HART

# The New York Times

“THE FIGHT FOR WISCONSIN’S SOUL”

BY DAN KAUFMAN

THE NEW YORK TIMES

MARCH 29, 2014

Wisconsin has been an environmental leader since 1910, when the state’s voters approved a constitutional amendment promoting forest and water conservation. Decades later, pioneering local environmentalists like Aldo Leopold and Senator Gaylord Nelson, who founded Earth Day in 1970, helped forge the nation’s ecological conscience.

But now, after the recent passage of a bill that would allow for the construction of what could be the world’s largest open-pit iron ore mine, Wisconsin’s admirable history of environmental stewardship is under attack.

The mine, to be built by Gogebic Taconite (GTAC), owned by the coal magnate Chris Cline, would be in the Penokee Hills, in the state’s far north — part of a vast, water-rich ecosystem that President John F. Kennedy described in 1963, in a speech he delivered in the area, as “a central and significant portion of the freshwater assets of this country.”

The \$1.5 billion mine would initially be close to four miles long, up to a half-mile wide and nearly 1,000 feet deep, but it could be extended as long as 21 miles. In its footprint lie the headwaters of the Bad River, which flows into Lake Superior, the largest freshwater lake in the world and by far the cleanest of the Great Lakes. Six miles downstream from the site is the reservation of the Bad River Band of Lake Superior Chippewa, whose livelihood is threatened by the mine.

To facilitate the construction of the mine and the company’s promise of 700 long-term jobs, Gov. Scott Walker signed legislation last year granting GTAC astonishing latitude. The new law allows the company to fill in pristine streams and ponds with mine waste. It eliminates a public hearing that had been mandated before the issuing of a permit, which required the company to testify, under oath, that the project had complied with all environmental standards. It allows GTAC to pay taxes solely on profit, not on the amount of ore removed, raising the possibility that the communities affected by the mine’s impact on the area’s roads and schools would receive only token compensation.

The legislation has generated fierce opposition since it was first introduced in 2011. The following year, the bill was actually defeated in the State Senate, 17 to 16, owing to the defection of one Republican, Dale Schultz. After the vote, the Republican majority leader, Scott Fitzgerald, told me that “the corporation and their attorneys drafted a bill that may have been acceptable in other states,” with the implication being that the company had perhaps gone too far for Wisconsin.

Since then, however, Democrats have lost three Senate seats and an even more industry-friendly version of the bill was revived and passed. According to the Wisconsin Democracy Campaign, a campaign-finance watchdog, GTAC executives and other mine supporters have donated a total of \$15 million to Governor Walker and Republican legislators, outspending the mine’s opponents by more than 600 to 1.

Most distressing to many native Wisconsinites, including me, was the way the bill violated a bipartisan, reform-minded civic tradition called the Wisconsin Idea. For more than a century, the Wisconsin Idea had encouraged the use of scientific expertise to inform public policy, but the mining bill dangerously ignores geological reality.

Before the passage of the bill, Marcia Bjornerud, a geology professor at Lawrence University in Appleton, Wis., testified before the legislature that samples she had taken from the mine site revealed the presence of sulfides both in the target iron formation and in the overlying rock that would have to be removed to get to the iron-bearing rocks. (When exposed to air and water, sulfides oxidize and turn water acidic, which

can be devastating to rivers and streams, along with their fish populations.) Sulfide minerals, Professor Bjornerud said, would be an unavoidable byproduct of the iron mining. But the bill does not mandate a process for preventing the harm from the sulfide minerals that mining would unleash.

Equally troubling was the more recent discovery by Tom Fitz, a geology professor at Northland College in Ashland, Wis., of a highly carcinogenic asbestos-form mineral at one of GTAC's sampling sites. The fibers of the mineral, which would be dispersed in blasting, are like tiny, breathable needles.

Last September, several hundred people gathered outside John F. Kennedy Memorial Airport in Ashland, a few miles from GTAC's mining site, to commemorate Kennedy's 1963 speech, which called for legislation to protect the area's natural resources and promoted its economic potential as a scenic region for recreation. One of the last to speak at the event was Mike Wiggins Jr., the chairman of the Bad River tribe and the mine's most formidable opponent.

The Bad River fear the contamination of the fish they depend on for food and the destruction of sensitive wild rice beds that they harvest on the coast of Lake Superior. Mr. Wiggins has voiced his opposition to the mining legislation in private meetings with Mr. Walker, led Wisconsin's tribes in demonstrations at the State Capitol in Madison and allocated hundreds of thousands of dollars of the Bad River tribe's scant resources to legal fees to fight the mine.

The Bad River and several other tribes assert that the state has no right to permit the enormous mine without their agreement since the site lies in "ceded territory," an area covering a large portion of Northern Wisconsin where tribal members maintain special hunting, fishing and harvesting rights enshrined in federal treaties. Last June, one of the tribes established an educational camp near the mining site to draw attention to how the mine would violate its treaty rights, as well as to highlight sustainable alternatives to mining. GTAC responded to a minor altercation with protesters unconnected to the camp by hiring an Arizona-based private-security firm, which sent guards armed with semiautomatic weapons to patrol the mine site. (The guards have since been withdrawn; the camp is still there.)

In the Chippewa tradition, a decision is made based on how it will affect people seven generations forward. By contrast, the company's optimistic estimate for the life span of the first phase of the mine is 35 years. Last summer Mr. Wiggins played Governor Walker a recording of Kennedy's speech. Mr. Wiggins said that the governor appeared indifferent to Kennedy's words; Mr. Walker has never wavered in his support of the mine.

Though GTAC has already begun bulk sampling iron ore at the site, the mine still faces many hurdles before it can be permitted. The company has filed incomplete sampling applications with the state's Department of Natural Resources. GTAC's president, Bill Williams, is facing a criminal inquiry in Spain for alleged environmental crimes, which are unrelated to the GTAC mine. The charges state that runoff from an open-pit mine where he once worked as an executive contaminated local groundwater. (Mr. Williams denies the charges and declined to comment on them.) Most important, the tribes will almost certainly challenge the mine in federal court.

Mr. Wiggins and five other tribal leaders have already begun seeking redress from the federal government. Last August, they sent President Obama a letter asking him to direct the Interior Department to prevent the construction of GTAC's mine, citing their claims that the mine would infringe on their treaty rights. GTAC Though the letter did not mention it, five years ago Mr. Obama told nearly 400 Native American tribal leaders, "We have a lot to learn from your nations in order to create the kind of sustainability in our environment that we so desperately need." The president said that the tribes "deserve to have a voice" and "will not be forgotten as long as I'm in this White House." Last week, Mr. Wiggins said that although he has gotten preliminary responses from two federal agencies, he is still awaiting an answer from the president.

