

**BEFORE THE  
STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS**

---

**In The Matter of the Application of Flambeau  
Mining Company for Issuance of a Certificate of  
Completion of Reclamation**

**Case No.: IH-07-05**

---

**STIPULATION AND ORDER**

---

**STIPULATION**

The Parties hereby stipulate and agree as follows:

1. A Certificate of Completion (COC) that applies only to the 149-acre portion of the mine site (which encompasses the backfilled former open pit mine) that does not include the 32-acre Industrial Outlot (which is where the mine buildings were located) shall be granted to FMC.
2. FMC agrees to withdraw the COC petition for the Industrial Outlot.
3. FMC will not apply for a COC for the 32-acre Industrial Outlot for at least three years from the date of this agreement. It is not necessary that FMC file another NOC for the COC. The NOC filed in September 2001 is deemed to cover the Industrial Outlot. When FMC does apply for this COC, the WDNR shall notify the parties in writing within 10 days. FMC will provide copies of the January list of anticipated reclamation activities, the mid-summer progress report, the annual fall reclamation report, and copies of all correspondence between FMC and WDNR regarding work at the Industrial Outlot, to the signatories to this agreement or their designated representatives.
4. The reclamation bond does not define and is not a limit on liability for the mine site.
5. The reclamation bond shall be reduced to 20% of the current amount. Additionally, FMC anticipates that the long-term care bond of \$1 million will be increased by the WDNR by at least another \$1 million.
6. FMC agrees to conduct the following monitoring:
  - a. Sediments in the 0.9-acre biofilter, 1.7-acre biofilter, Stream C, and the Flambeau River immediately below Stream C (once in 2008).

- b. Soils in the H&H building area and five representative locations on the mine site, taken to a depth of 4 inches (once in 2007 or 2008).
- c. Surface water at the three points where focused runoff leaves the mine site, and the Flambeau River above and below the mine site, including below the point of discharge of Stream C to the Flambeau River twice per year for five years.
- d. Biota sampling will be for crayfish and walleye and will be done in the Flambeau River above and below the mine site, including below the point of discharge of Stream C to the Flambeau River once per year for five years.

The parameters to be monitored are:

Biota (crayfish and walleye) – copper, iron, manganese, zinc

Flambeau River (surface water quality) – sulfate, copper, iron, manganese, zinc, PH, hardness and conductivity

Sediments – copper, iron, manganese, zinc

Soils – copper, pH and sulfide

- 7. In order for the Industrial Outlot to obtain a COC in the future, the Outlot will need to meet the Administrative Law Judge's interpretation as set forth in the May 14<sup>th</sup>, 2007 Ruling on the Statement of Issues and any modifications thereto on the record at the contested case hearing on May 30, 2007. This interpretation is that the definition of reclamation, which is found in section 293.01(23), Stats. applies as to whether FMC has achieved its reclamation plan, and that FMC will not be required to prove there will not be groundwater or surface water pollution that arises after the COC is issued in order to obtain the COC for the Industrial Outlot.
- 8. An Order to this effect may be entered by the Administrative Law Judge, without costs, fees or further notice or hearing to any Party.
- 9. The undersigned certify that they have the authority to enter into this agreement, subject to ratification within 14 days by the LCO Tribal Council, the Northern Thunder Board of Directors, the Sierra Club, and FMC President.

Date 5/31/07



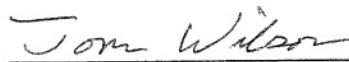
Glenn M. Stoddard  
State Bar No. 1020964  
130 S. Barstow St., Suite 2C  
Eau Claire, WI 54701  
Tel: (715) 852-0345  
Attorney for Laura Furtman, Al  
Gedicks, Wisconsin Resources  
Protection Council, and the Sierra  
Club

Date: 5/31/07



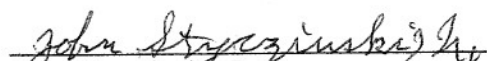
Melissa Scanlan  
State Bar No. 1034783  
Midwest Environmental Advocates, Inc.  
551 W. Main Street, Suite 200  
Madison, WI 53703  
Tel: (608) 251-5047  
Attorney for Lac Courte Oreilles Band of  
the Lake Superior Chippewa Indians

Date: 5/31/07



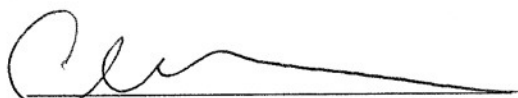
Tom Wilson  
Suite 201 Landmark Center  
500 East Jefferson Street  
Viroqua, WI 54665  
Tel: (608) 637-3356  
Representing Northern Thunder

Date 5-31-07



John Styczinski, Jr.  
Rusk County Community Action Group  
P.O. Box 216  
Conrath, WI 54665  
Representing Rusk County Community  
Action Group

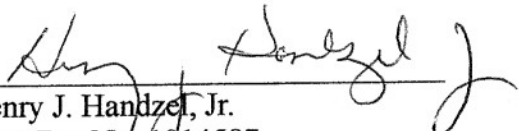
Date 5/3/07



Charles R. Hammer  
State Bar No. 1015677  
101 S. Webster Street

P.O. Box 7921  
Madison, WI 53707  
Attorney for Wisconsin Department  
of Natural Resources

Date 5/31/07

  
Henry J. Handzel, Jr.  
State Bar No. 1014587  
DeWitt, Ross & Stevens, S.C.  
Two E. Mifflin Street, Suite 600  
Madison, WI 53703-2865  
Attorney for Flambeau Mining  
Company

May 31, 2007

**ORDER**

Based upon the above Stipulation of the Parties,

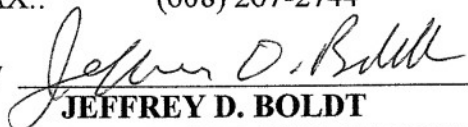
**IT IS HEREBY ORDERED**, that the above Stipulation of the Parties is accepted  
and made a part of this Order; and

**IT IS FURTHER ORDERED**, that this matter is hereby dismissed without  
costs, fees or further notice or hearing to any Party.

Dated at Madison, Wisconsin on May 31<sup>st</sup>, 2007.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705-5400  
Telephone: (608) 266-7709  
FAX:: (608) 267-2744

By

  
**JEFFREY D. BOLDT**  
**ADMINISTRATIVE LAW JUDGE**