



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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November 22, 1989

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Mr. Lyman F. Wible  
Administrator  
Division of Environmental Quality  
Department of Natural Resources  
Post Office Box 7921  
Madison, Wisconsin 53707-7921.

Dear Mr. Wible:

This letter responds to the Wisconsin Department of Natural Resources' (WDNR) November 1, 1989, letter proposing the maximum allowable compliance boundary for the proposed Flambeau Mining Company Mine. Per Wis. Admin. Code § NR 182.075(1)(a)1, any party to a mine permit hearing may propose alternative groundwater standards or a compliance boundary. This letter is our initial response to WDNR's November 1 proposal. We may file further comments on this issue at a later date.

Under § NR 182.075(1)(b)2, the WDNR has the authority to establish a compliance boundary less than 1200 feet. We believe that the boundary should be lesser than 1200 feet on the southwest part of the project area, to-wit, the boundary there should be the Flambeau River. It is our reading of the company's consultants' reports that the past two years of technical discussions and studies concur with this boundary.

According to the company's consultants, Foth and Van Dyke, in its Prediction of Groundwater Quality Downgradient of the Reclaimed Pit for the Kennecott Flambeau Project (July 1989), the "most logical" place for the compliance boundary west of the pit is the Flambeau River. The company's report states:

Sulfate will not exceed the MCL beyond the most logical compliance boundary (the NR 182.075 point of standards application), the Flambeau River, which is only 140 feet from the edge of the mine pit. In addition, since the river will serve as a very effective hydraulic boundary and the river pillar

acts as a sink for groundwater, it is assured that the elevated sulfate concentrations will never be able to travel more than 140 feet from the reclaimed pit.

Report at p. 33; see also p. 3.

In addition, the company's consultant for the groundwater flow model utilized a project area boundary that put the southwest boundary in the Flambeau River. See Groundwater Model for the Kennecott Flambeau Project, Ladysmith, Wisconsin, July 1989, at p. 2.

Finally, WDNR's Draft Environmental Impact Statement, September 1989, recognizes the Flambeau River was a "boundary" condition for the modeling work. DEIS at p. 44.

As a party to the sec. 144.836, Stats., permit hearing on this proposed mine, we request that the WDNR reduce the compliance boundary west of the mine pit to the hydraulic boundary created by the Flambeau River.

Sincerely yours,

  
Kathleen M. Falk  
Wisconsin Public Intervenor

Jeffrey Kalinich  
Public Intervenor Clinical Intern

KMF:JK:lsc6

cc: Larry Mercado-Kennecott Minerals Company  
Jerry Sevick-Foth & Van Dyke  
Hank Handzel and Paul Kent-DeWitt, Porter, et al.  
Bill Thiel-Jordan, Herrell and Thiel  
Tom Evans-WG&NHS  
Dennis Leong-DOD  
Bob Ramharter-DNR  
Chuck Hammer-DNR  
Douglas Cherkauer  
Hearing Examiner David Schwartz  
"Parties" to the Permit Hearing