

# GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

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## • MEMBER TRIBES •

### MICHIGAN

Bay Mills Community  
Keweenaw Bay Community  
Lac Vieux Desert Band

### WISCONSIN

Bad River Band  
Lac Courte Oreilles Band  
Lac du Flambeau Band

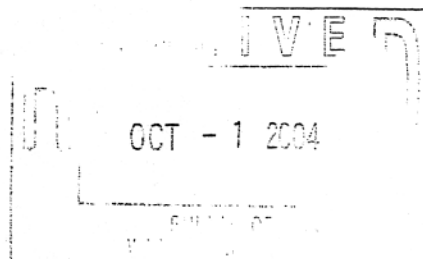
### MINNESOTA

Fond du Lac Band  
Mille Lacs Band

Red Cliff Band  
St. Croix Chippewa  
Sokaogan Chippewa

September 29, 2004

Lawrence Lynch, Mining Team Leader  
Wisconsin Department of Natural Resources  
P.O. Box 7921  
Madison, Wisconsin 53707



Re: Flambeau Mining Company Violations of State Water Quality Standards

Dear Mr. Lynch,


The Voigt Intertribal Task Force asked that I contact you to express its appreciation to you for attending its June 3 meeting at Lac Courte Oreilles and for the information that you provided regarding a number of issues associated with the Flambeau mine. As you learned at that meeting, the Task Force is particularly concerned about the exceedances of state surface water standards in Stream C at the site that the Department acknowledges have occurred. It is aware of the fact that the Flambeau Mining Company has proposed a monitoring plan for Stream C, and its comments on that proposal have been provided to you under separate cover by John Coleman of the Commission staff. The Task Force hopes that an acceptable monitoring regimen will be established to identify the sources and extent of contamination.

However, the Task Force strongly disagrees with the Department's decision not to seek an enforcement action against the Company. Although the Company may have removed a suspected source of the contamination and may now agree to future monitoring, it must nevertheless be held responsible for what are clear and perhaps continuing violations of state standards. The Department should seek to ensure accountability as well as to provide deterrence against future violations not only by this Company but by others who may be in a position to pollute ceded territory waters. Failure to take enforcement action sets a poor precedent for monitoring and enforcement of Wisconsin's mining laws, particularly where those laws are being applied to a mining operation for the first time.

The Task Force is not persuaded by the Department's justification that you presented on June 3 for not seeking an enforcement action. It rejects the view that Stream C is less important than other water bodies at the Flambeau mine site. From the overall perspective of the ecosystems surrounding the mine site, Stream C is of no less "value," to use your term, than the others. In addition, the Task Force finds little ambiguity in the Department's authority under state regulations to pursue an enforcement action where sampling of surface water discharge has shown elevated metals for several years and, since 2002, samples in Stream C have exceeded state water quality standards.

The Department's failure to seek an enforcement action sends the message that it condones the violations that have occurred at the Flambeau site, and the Company's acquiescence in a future monitoring plan does not hold it accountable for its past actions. The Task Force asks that Department reconsider its decision and take the steps necessary to properly enforce the applicable laws against the Flambeau Mining Company.

Sincerely,

  
James H. Schlender  
Executive Administrator

cc: Voigt Intertribal Task Force  
John Gozdziwski, WDNR  
Neil Kmiecik, GLIFWC Biological Services Director