

# Exhibit 16

Excerpt from Flambeau Mine Permit, January 1991

25. Liner and piping material from the Type II stockpile area, the runoff and surge ponds and the crushing facilities which are not recycled or salvaged and crushed rock from the Type II stockpile shall be disposed of with Type II waste rock in the open pit.
26. Reclamation activities shall proceed in accordance with the approved Reclamation Plan and to the extent possible, Flambeau shall reclaim those areas of the mining site which can be appropriately reclaimed prior to cessation of mining activities. Flambeau shall apprise the Department of its reclamation activities in accordance with the following schedule:
  - a) A description of each year's proposed reclamation activities shall be submitted by January 31 of that year.
  - b) Notice of construction and reclamation activities shall be provided at least five working days prior to the actual initiation of said activities.
  - c) A progress report that details activities which have been completed shall be submitted around mid-summer.
  - d) An annual report shall be submitted by November 15th and shall contain a record of activities, monitoring, raw data and evaluations for the permitted mining site.

The reports shall be consistent with the intent of the reclamation plan and subject to review and approval by the Department. The Department shall provide any comments on such reports within 45 days of receipt of each report. The reports shall include tabular, graphic, and narrative portions both as hard copy and on diskette. The forms shall be compatible with the hardware and software capabilities of the Department.

#### **Part 4 - Monitoring Plan Approval.**

For purposes of this approval, the monitoring provisions of Section 10 of the Mining Permit Application shall be considered as part of the Monitoring Plan and as such the reporting requirements and procedures regarding modification of the plan shall apply to these provisions as well. Prior to

commencing construction, Flambeau shall submit an updated Monitoring Plan which incorporates all required project monitoring. Approval is hereby granted to Flambeau for its Monitoring Plan as submitted to the Department subject to the following conditions:

1. Monitoring wells MW-1013G and MW-1014G shall be constructed with screened intervals 10 feet in length and wells MW-1013P and MW-1014P shall have screened intervals 15 feet in length.
2. Water quality monitoring of wells MW-1013G, 1013P, 1014G and 1014P shall be conducted on a quarterly frequency at all of the wells until at least 8 samples have been obtained from each well. At that time, a reduction in monitoring frequency may be requested by Flambeau and, provided that the monitoring results confirm the predictive modeling of water quality within the backfilled material and verify that no adverse impacts to water quality within the Flambeau River will occur, the Department may approve such request. The parameter list for the sampling round occurring in June of each year shall be expanded as specified in section 10.1.3.2 of the Mining Permit Application. The provisions of NR 140, Wis. Adm. Code, shall be used to determine statistically significant changes in the groundwater quality.
3. Wells MW-1013G, 1013P, 1014G and 1014P shall be monitored for water level as part of the water level monitoring program described in Section 10.1.3.3 of the Mining Permit Application. The water level monitoring program shall continue on a quarterly frequency until the Department determines that the water levels have stabilized. Water levels shall be deemed as stable when no significant net annual changes occur in water levels over a two-year period. An acceptable range of annual fluctuations in groundwater levels shall be based on a statistical analysis of observed pre-mining annual fluctuation ranges of those wells with a pre-mining monitoring record which are to be included in the long-term monitoring program. To the extent technically feasible, the entire record of pre-mining water level measurements from the applicable wells shall be considered when determining the normal or acceptable annual fluctuation range.

The average annual range will be based on the combined average of the annual fluctuation ranges of all the wells presently on site that are to be included in the long-term monitoring program, plus or minus one standard deviation. During the post reclamation period as the water table recovers, the net annual fluctuation should be relatively large, showing an upward movement of the water table. As stability is approached, this net upward fluctuation will be reduced through time, eventually falling back into the average annual range that exists today. When the average annual fluctuation falls within this range for two consecutive years, the water table will then be deemed to have stabilized.

At the time water levels stabilize, should they stabilize at elevations which cause adverse environmental impacts, the DNR may require Flambeau to take appropriate remedial measures in accordance with applicable law.

4. Flambeau shall monitor the Total Suspended Particulate Matter (TSP) ambient air concentration during the preproduction, active mining and reclamation phases of the project in accordance with the following specifications.

a) TSP monitors shall be operated at the following four locations: near the Rusk County Hospital, along Blackberry Lane, along Highway 27 southeast of the mining site and along Highway 27 northeast of the mining site. The monitor located along Blackberry Lane shall be located south of Blackberry Lane at a site which minimizes the fugitive dust impact from the gravel on Blackberry Lane. The specific locations shall be approved by the Department prior to installation of the monitors.

b) During the preproduction phase, each monitor shall be operated once every 3 days (24 hours "on" commencing at midnight and 48 hours "off").

During the mining phase, each monitor shall be operated once every other day (24 hours "on" and 24 hours "off" commencing at midnight). If after one year of monitoring there has been no exceedance of a TSP standard, the sampling schedule may be reduced to no less than once every 6 days.

During the reclamation phase, each monitor shall be operated once every 3 days (24 hours "on" commencing at

midnight and 48 hours "off"). If after one year of monitoring there has been no exceedance of a TSP standard, the sampling schedule may be reduced to no less than once every 6 days.

The specific days of monitoring shall be in accordance with the Department's standard sampling schedule.

- c) Flambeau shall retain each filter from the TSP monitors. Once every 3 months, a portion of each filter shall be analyzed for arsenic, chromium, nickel, beryllium, cadmium and mercury.
  - d) If the TSP 24-hour concentration at a monitoring site exceeds 500 micrograms per cubic meter Flambeau shall monitor for both TSP and  $PM_{10}$  at the site where the exceedance occurred. The  $PM_{10}$  monitor shall be operated for a minimum of one year on an every other day basis. If the 24-hour exceedance can be attributed to an exceptional event,  $PM_{10}$  monitoring will not be required.
  - e) Flambeau shall investigate any exceedance of a TSP or  $PM_{10}$  standard and shall report any such exceedance to the Department within two working days of having determined the sample concentration. Flambeau shall provide an exceedance investigation report to the Department which shall include the following information: an analysis of the monitoring filter; a wind rose for the exceedance period; and information about the operating conditions at the mining site during the exceedance period (i.e. number of trucks and mining vehicles in operation; amount of production occurring at the facility, etc)
5. Flambeau shall monitor for asbestiform fibers for one month during each 12 month period. The first month of monitoring shall begin when the mining phase begins or May 1, which ever is earlier. Monitoring shall be repeated annually between May 1 through September 30 on or about the anniversary date of the beginning of the mining phase. The monitoring plan for asbestiform fibers shall be approved by the Department's air monitoring section. If the monitoring during the first three years of active mining does not detect asbestiform fibers from the mining operations, Flambeau may discontinue monitoring for asbestiform fibers.

6. Monitoring and reporting of all air monitoring data shall be conducted in accordance with guidelines provided by the Air Monitoring Section of the Bureau of Air Management.
7. Leachate from the Type II stockpile area shall be monitored on a quarterly basis during operation. Parameters to be measured shall include pH(field), conductivity (field), TDS, dissolved iron, dissolved copper, dissolved manganese, sulfate, total alkalinity and total hardness. A proposed sampling point and methods for sampling shall be included in the preconstruction report required under Part 2, condition 20. The sampling point shall be located such that a representative leachate sample is obtained prior to mixing with other sources of water.
8. Quality assurance/quality control documents shall be submitted to the Department at least 90 days prior to implementing the corresponding section of the monitoring plan. These documents shall specify the methodology for sample collection, handling and analysis and monitoring data reporting and evaluation procedures. All sample collection and analyses shall be performed using accepted and standard procedures as approved by the Department. Laboratories conducting the analyses shall be certified or registered in accordance with Ch. NR 149, Wis. Adm. Code. The quality assurance/quality control documents shall specify provisions for regular maintenance of all monitoring devices, to ensure that such devices remain in proper working condition.
9. Monitoring data and results shall be submitted to the Department within 30 days after completion of the required analyses. The annual report required in this permit shall summarize the year's monitoring activities and any observed trends in the monitoring data.
10. The Department may modify provisions of the Monitoring Plan if results of the monitoring indicate that a revised frequency or intensity is necessary or that a different, additional method of monitoring is appropriate. Modifications to the Monitoring Plan shall be processed using the procedures specified in ss. NR 131.12(2) and (3)(a), Wis Adm. Code.
11. Surface water quality monitoring shall be conducted on a quarterly basis regardless of weather conditions.
12. Immediately following any unforeseen spill or release of gasoline, fuel oil, diesel fuel, or other organic compounds in the

course of construction, operation or closure of the mine, Flambeau shall inform the Wisconsin DNR in accordance with the provisions of sec. 144.76, Stats., and undertake monitoring of wells as the DNR may require pursuant to the provisions of sec. 144.786, Stats.

Dated at Madison, Wisconsin on January 14, 1991.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By David H. Schwarz  
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