



September 25, 2015

IP-NO-2015-55-01907

Flambeau Mining Company  
Dave Cline  
4700 Daybreak Pkwy  
South Jordan, UT 84095

Dear Mr. Cline:

The Department of Natural Resources has completed its review of your application for a permit to construct a waterway that connects with Flambeau River, in the Town of Grant, Rusk County. You will be pleased to know your application is approved with a few limitations.

I am attaching a copy of your permit, which lists the conditions that must be followed. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permit, please call me at (715) 365-8991 or email [Kyle.McLaughlin@wisconsin.gov](mailto:Kyle.McLaughlin@wisconsin.gov).

Sincerely,

Kyle McLaughlin  
Water Management Specialist

cc: Dan Munson, U.S. Army Corps of Engineers  
Cece Tesky, Rusk County Zoning Administrator  
Sharon Kozicki, Foth – Project Consultant  
Timm Speerschneider, Attorney – Dewitt Ross & Stevens

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Kirk Konichek, Conservation Warden – Ladysmith  
Phil Fauble, WDNR Madison  
Cheryl Heilman, WDNR Madison



construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

8. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
9. You must submit a series of photographs to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.
10. A Pre-Construction meeting must be held with the contractors responsible for the completion of this project. At that meeting, all contractors must be provided with the approved project plans (contained in Foth's June 30, 2015 response to the Department's additional information request) and a copy of this permit. Permit Conditions must be reviewed by all contractors. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at:  
[http://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](http://dnr.wi.gov/topic/stormwater/standards/const_standards.html) .
12. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, must be decontaminated for invasive species and viruses before and after use **or** prior to use within another navigable waterway. Follow the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in Wis. Adm. Code ch. NR 40. These protocols and practices can be found on the Department website at <http://dnr.wi.gov/topic/Invasives/bmp.html> Keyword: "equipment operator" or "invasive bmp" and at <http://dnr.wi.gov/topic/Invasives/documents/EquipOper.pdf>
13. The permittee, heirs, successors or assignees must comply with laws for platting of land and sanitation, and with local zoning ordinances, and with standards developed for shorelands and floodplains in NR 115 and NR 116, Wisconsin Administrative Codes.
14. The connection of the artificial waterway with Stream C must not be made until the banks have been protected from erosion or slumping and the suspended silt in any water trapped inside the artificial waterway has settled out and all slopes and channels are properly stabilized.

15. If a navigable connection to the artificial waterway develops over time, under Wisconsin Law, the waterway constructed is a public waterway. This means the public has the right to boat, swim, fish and exercise other rights of the public on navigable waters as long as access to the waterway is obtained in a legal manner.
16. You must not deposit or store any of the graded materials in any wetland or below the ordinary high water mark of any waterway. All graded materials must be placed out of the floodway of any stream.
17. You must restrict the removal of vegetative cover and exposure of bare ground to the minimum amount necessary for construction.
18. You must not operate any construction equipment below the ordinary high water mark of any waterway.
19. You must maintain a log of the erosion control inspections, repairs made, and rain events. This must be made available to Department personal upon request and must remain on the project site at all times work is being performed.
20. In order to avoid an incidental take of state endangered or threatened species which may be located in the project area, work timing restrictions are required and are as follows:

<b>Dates</b>	<b>Avoidance Area (work cannot occur)</b>	<b>No Restrictions</b>
November 1 – March 14	None (work can occur in all uplands)	all uplands
March 15 – May 14	0 m-75 m (0 ft -246 ft)	> 75 m (>246 ft)
May 15 – September 15	0 m-300 m (0 ft-984 ft)	> 300 m (984 ft)
September 16 – October 31	0 m-75 m (0 ft -246 ft)	> 75 m (>246 ft)

\*\*Please note that distances referenced should be measured from the Flambeau River.

21. The proposed monitoring plan is of sufficient scope to allow an assessment of water quality impacts to Stream C from the construction activities associated with this permit.
22. Fall sampling for 2015, under Permit IP-NO-2011-55-03344 & 03345 & 03346 is not required during construction activities for this permit

#### FINDINGS OF FACT

1. Dave Cline has filed an application for a permit to construct a waterway that connects with an unnamed tributary to the Flambeau River, in the Town of Grant, Rusk County, also described as SW1/4 S9, T34N, R6W.
2. The project site is part of a reclaimed metallic mining operation. The project consists of grading work conducted generally within and directly adjacent to the three existing

infiltration basins which are located to the North of Copper Park Lane and adjacent to the business and equestrian parks, which will result in a connection to intermittent Stream C. Each of the existing basins will be re-graded to create flow through wetland systems which ultimately direct surface water flow to an existing wetland (known as wetland 7) and associated drainage system (intermittent Stream C). The former basins and constructed channels will be vegetated with wet meadow and emergent wetland plant native seed mixtures, and the adjacent uplands will be vegetated with an upland prairie native seed mixture. Areas within the constructed channels where there is an elevation change between the former basins will be protected with limestone riprap. The purpose of the project is to facilitate stormwater flow through the site and eliminate overtopping concerns within the basins (particularly the former East basin/Biofilter). The low flow channels are expected to be inundated during small storm events, and water has been modeled to rapidly move through the constructed system via sheet flow during storm events exceeding the 2 year, 24 hour storm.

3. The unnamed tributary to the Flambeau River, locally known as "Stream C," is a navigable water. Stream C from south of Copper Park Lane to the Flambeau River is listed as an impaired waterway on the State's list of impaired waters due to monitoring results that indicated levels of copper and zinc above state water quality standards. The impaired waters listing indicates the source of the impairment is unknown.
4. The Department requested additional information from the applicant on June 15, 2015. The information that was requested was then received on June 30, 2015. A date of closure letter was sent to the applicant on July 10, 2015. A notice of pending application and notice of public hearing letter was sent to the applicant on July 24, 2015. The notice was published on the Department's website and in the Ladysmith News on July 30, 2015.
5. The Department held a public informational hearing for the project on August 18, 2015 at 11:00 a.m. at the Ladysmith Department of Natural Resources Service Center, located at N4103 Highway 27 Ladysmith, WI 54848. 4 Department Staff and 2 representatives of Flambeau Mining Company were present at the hearing. No members from the general public were present for the hearing.
6. Two public comments were submitted to the Department for consideration during the public comment period which ended on August 28, 2015. A summary of comments received is as follows:

#### Summary of Public Comments:

- The plan submitted is similar to a strategy pursued by Flambeau Mining Company previously. FMC's new surface water management plan should acknowledge and address the fact that Stream C is now on the EPA's impaired waters list, and any approval document issued by the Wisconsin DNR should take steps to ensure that FMC's new plan will not make conditions in Stream C worse. The Department should also require FMC to obtain a WPDES storm

water permit for the discharge of potentially contaminated runoff from its detention basin/culvert system to Stream C.

- The project as proposed should increase flow in Stream C but the plan does not recognize how toxic materials contained in the surface waters are removed or mitigated. The Department should demand a more comprehensive clean up of the site that will have permanent protection for both Stream C and the Flambeau River. The monitoring frequency of the waters through Stream C should be increased and done under *all* water flow conditions.
7. On September 17, 2015, The Department and Applicant agreed to a one-time permit decision deadline extension in order to allow for a final decision to be rendered no later than 09/25/2015.
  8. The Department received a revised surface water monitoring plan from FMC on 09/24/2015.
  9. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
  10. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
  11. The proposed project will not impact wetlands if constructed in accordance with this permit.
  12. The Department of Natural Resources has determined that the agency's review of the proposed project constitutes an equivalent analysis action under s. NR 150.20(2), Wis. Adm. Code. The Department has considered the impacts on the human environment, alternatives to the proposed projects and has provided opportunities for public disclosure and comment. The Department has completed all procedural requirements of s. 1.11(2)(c), Wis. Stats., and NR 150, Wis. Adm. Code for this project.
  13. The Department of Natural Resources has completed all procedural requirements and the project as permitted will comply with all applicable requirements of sections 30.19(4), Wisconsin Statutes and Chapters NR 102, 103, 343 of the Wisconsin Administrative Code.

The applicant was responsible for fulfilling the procedural requirements for publication of notices under s. 30.208(5)(c)1m., Stats., and was responsible for publication of the notice of pending application under s.30.208(3)(a), Stats. or the notice of public informational hearing under s.30.208(3)(c), Stats., or both. S. 30.208(3)(e), Stats., provides that if no public hearing is held, the Department must issue its decision within 30 days of the 30-day public comment period, and if a public hearing is held, the Department must issue its decision within 20 days after the 10-day period for public

comment after the public hearing. S. 30.208(5)(bm), Stats., requires the Department to consider the date on which the department publishes a notice on its web site as the date of notice.

14. The activity will not be detrimental to the public interest.
15. The activity will not cause environmental pollution as defined in s. 299.01(4).
16. The proposal complies with all of the laws relating to platting of land and sanitation.
17. No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

#### CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

#### NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

**The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.**



A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.;
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at Northern Region Headquarters (Rhinelander), Wisconsin on 09/25/2015.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By   
\_\_\_\_\_  
Kyle McLaughlin  
Water Management Specialist

## Flambeau Mining Company Surface Water Monitoring Plan 9/24/2015

Flambeau Mining Company shall implement a Surface Water Monitoring Program in 2016 after completion of construction and restoration activities undertaken pursuant to this permit.

The surface water monitoring program shall include the following:

- Continued surface water sampling at existing locations SW-C9 (representing the upstream conditions of the connected waterway's connection to Intermittent Stream C) and SW-C1 (representing downstream conditions of the connected waterway's connection to Intermittent Stream C).
- The targeted frequency of sampling at SW-C9 and SW-C1 shall be as follows:
  - 8 samples of qualified flow events during the period from April 1 to November 30 of each year
  - Samples obtained to reflect a variety of qualifying precipitation / runoff conditions
  - If 8 qualified flow events do not occur during the calendar year, the sampling frequency shall be reduced accordingly
- Sample points SW-C9 and SW-C1 will be sampled up to 8 times per year for a period of three (3) years.
- Sampling will consist of collecting samples only during qualifying storm / flow events with a *qualified flow event* being defined as a precipitation event with rainfall equal or greater than 0.5 inches which exhibits continuous and simultaneous visible flow at both monitoring locations (SW-C9 and SW-C1).
- The depth of stream flow shall be measured at the time of water sampling utilizing a removable staff gauge at the STH 27 culvert outlet adjacent to SW-C9 and at the Copper Park lane culvert outlet proximal to SW-C1. Permanent brackets will be attached at the exit of both culverts to allow a portable staff gage to be set in place to obtain depth of water measurements. The bracket system will be constructed such that the portable staff gage will be held at the same elevation for all sampling events providing repeatable and comparative results. Upon the completion of sampling a given event, the staff gage will be removed and stored on site.
- Field parameters shall be obtained associated with the grab sample and will consist of dissolved oxygen, electrical conductivity, Oxidation Reduction Potential (ORP), pH, and temperature.

Flow shall be determined based on the size of the culvert, measured depth of flow at the culvert outlet, and the standard mathematical relationship between depth of flow and culvert characteristics (standardized culvert hydraulics).

- The grab samples shall be collected, documented, and preserved as per the current Quality Assurance Project Plan and transported to a certified laboratory for analysis of total copper, total zinc, hardness as CaCO<sub>3</sub>, total suspended solids, pH, and electrical conductivity.
- The field and analytical results collected to date shall be summarized and provided to the Department by July 1 of the year the sample(s) is taken and within 45 days following collection of the last sample of the year.

Note that for ease of reference, the drainageway between SW-C9 and SW-CI is referred to as Intermittent Stream C.

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July 10, 2015

GP-NO-2015-55-01909, 01910

Flambeau Mining Company  
Dave Cline  
4700 Daybreak Pkwy  
South Jordan, UT 84095

Dear Mr. Cline:

The Department of Natural Resources has completed its review of your application for a statewide general permit to restore or enhance a wetland adjacent to an unnamed tributary to the Flambeau River (Stream C), in the Town of Grant, Rusk County, and a permit to construct a culvert <20 square feet without an engineered design over the aforementioned stream. You will be pleased to know your application is approved with a few limitations.

Please note that these authorizations only pertain to the wetland soil removal and wetland vegetation management, and culvert replacement under Copper Park Lane proposed as part of your Copper Park Business and Recreation Area Work plan updated on June 30, 2015.

Please take this time to carefully re-read the permit eligibility standards and conditions found in the attached permit and culvert application checklist so that you are fully aware of what is expected of you. You are responsible for meeting all general permit eligibility standards and permit conditions for your project.

A copy of the permit must be posted for reference at the project site. Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Be sure to contact your local zoning office and U.S. Army Corps of Engineers for any local or federal permits that may be required for your project.

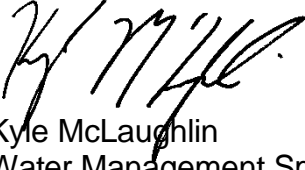
Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permit, please call me at (715) 365-8991 or email [Kyle.McLaughlin@wisconsin.gov](mailto:Kyle.McLaughlin@wisconsin.gov).

**We are committed to service excellence.**

Visit our survey at <http://dnr.wi.gov/customerurvey> to evaluate how I did.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kyle McLaughlin', written over the printed name below.

Kyle McLaughlin  
Water Management Specialist

cc: Philip Fauble, WDNR  
Bruce Moore, WDNR  
Cheryl Heilman, WDNR  
Ann Coakley, WDNR  
Dan Munson, US Army Corps of Engineers  
Sharon Kozicki, Consultant, Foth and Van Dyke  
Timm Speerschneider, Attorney, De Witt Ross & Stevens

<p><b>Eligibility Criteria:</b>                  Projects that do not meet all criteria are not eligible for this general permit. If your project does not qualify for this general permit, you may apply for an individual permit.</p>	
<p>The culvert area <b>will not</b> exceed 20 square feet as calculated in the Culvert Sizing Worksheet, which is part of this packet and is also described in ch. NR 320.07(1), Wis. Admin Code. The culvert Sizing Worksheet can be found at:  <a href="http://dnr.wi.gov/topic/Waterways/factsheets/Culvert_Placement_Worksheet.pdf">http://dnr.wi.gov/topic/Waterways/factsheets/Culvert_Placement_Worksheet.pdf</a></p> <p><b>Note:</b> The Culvert Sizing Worksheet must be included with the plans and specifications portion of the permit application.</p>	
<p>The culvert <b>will not</b> be placed in a public rights feature as described in ch. NR 1.06</p> <p><b>Note:</b> To determine if a waterway is a public rights feature (PRF) you may use the Designated Waters Theme on DNR's Surface Water Data Viewer: <a href="http://dnr.wi.gov/topic/surfacewater/swdv/">http://dnr.wi.gov/topic/surfacewater/swdv/</a></p>	
<p>The culvert <b>will not</b> be placed in a lake system.</p>	
<p>The culvert placement and installation will mimic the natural streambed and gradient above and below the culvert channel.</p>	
<p>If flow conditions require the use of a multiple culvert arrangement, culverts shall be placed at varying elevations, one in the bed and the other at 4 inches to 8 inches higher, to facilitate base and low flows as well as larger rain or snowmelt events.</p>	
<p>Both ends of the culvert shall be installed so a minimum of 4 inches and a maximum of 8 inches for a round culvert and 6 inches for a pipe arch culvert lies below the bed of the waterway.</p>	
<p>New culverts or replacements of existing culverts spanning navigable waterways shall maintain a clearance of not less than 5 feet.</p> <p><b>Note:</b> The department may require clearance of more than 5 feet when it is likely the waterway will be navigated above its ordinary high water mark elevation or if it is used by watercraft or snowmobiles requiring greater clearance.</p> <p><b>Note:</b> The department may allow less than 5 feet clearance when <u>all</u> the following apply: waterway is known to have little or no navigation or snowmobile use; the waterway is not anticipated to have navigational use by other than lightweight craft; the owner provides a portage over or around the culvert; the reduced clearance would not be detrimental to the public interest.</p>	
<p>Culvert inlets may not be capped with screens, bars or any other means, with the exception of beaver control procedures, which prevent movement of fish or wildlife or collect debris.</p>	
<p>Culverts shall be designed to prevent washout. Culverts shall be long enough so road fill does not extend beyond the ends of the culvert. The culvert shall extend at least one foot beyond the fill. The channel shall be protected with variable-sized riprap extending horizontally at least 2 times the culvert diameter or height of arch culvert from the end of the culvert. Riprap placement shall include an adequate filter layer or filter fabric.</p>	
<p>Clean fill material shall be firmly compacted around the culvert. Multiple culvert crossings shall have a minimum of 2 feet clearance between adjacent culverts to allow adequate compaction of fill material. The culvert shall be designed or protected to prevent crushing.</p>	
<p>Dredging and deposition of sand, gravel or stone on the streambed may be associated with the placement of a culvert provided that the dredging is limited to the volume necessary to bury the culvert as required in this section and the deposit is limited to the area immediately underneath or within 2 feet of the culvert.</p>	

Approach fill shall be a maximum of one foot deep at the bank and 0 feet at 15 feet landward of the bank. If depth of greater than one foot of approach is required or the approach must be located in a wetland, it shall be of an open ramp style that does not impede flow.	
During the placement of the structure, the removal of trees, shrubs and other shoreline vegetation above the ordinary high water mark will be minimized to the greatest extent possible.	
Accumulated brush, debris or other obstructions that are trapped in or underneath the structure will be regularly removed to prevent upstream flooding and to maintain structural integrity.	
Submit a series of photographs to the department within one week of placing the structure on this site and within one week of stabilizing disturbed areas on the site after the removal of the structure. The photographs shall be taken from different vantage points and depict all work authorized by the permit.	
Erosion control measures shall meet or exceed the technical standards for erosion control approved by the department under subch. V of ch. NR 151. Any area where topsoil is exposed during placement, repair or removal of a structure shall be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway. These standards can be found at: <a href="http://dnr.wi.gov/topic/stormwater/standards/">http://dnr.wi.gov/topic/stormwater/standards/</a> .	
The plans ensure that any area where topsoil is exposed during the placement, repair or removal of the structure will be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway.	
Unless part of a permanent storm water management system, all temporary erosion and sediment control practices will be removed upon final site stabilization. All areas disturbed during removal of temporary erosion and sediment control practices will be restored.	
All equipment used for the project shall be designed and properly sized to minimize the amount of sediment that can escape into the water.	
All grading, excavation and land-disturbance activities in the plans and specs documents will be confined to the minimum area necessary for the placement, repair or removal of the structure and will not exceed 10,000 square feet.  <b>Note:</b> If the project includes any grading, excavation or land-disturbance activity in excess of 10,000 square feet you may also need to receive approval under a Grading General or Individual permit in addition to this permit.	
The project plans minimize adverse impacts on fish movement, fish spawning, egg incubation periods and high stream flows, the project may not occur during the following time periods: <ul style="list-style-type: none"> <li>✓ September 15 through May 15 for trout streams and navigable tributaries to trout streams.</li> <li>✓ March 15 through May 15 for ALL waters located south of state highway 29.</li> <li>✓ April 1 through June 1 for ALL waters located north of state highway 29.</li> </ul> <b>Note:</b> Per ch. NR 1.02(7), the department identifies and classifies trout streams to ensure adequate protection and proper management of this unique resource. To determine if a waterway is a trout stream, you may use the Designated Waters Theme on DNR's Surface Water Data Viewer: <a href="http://dnr.wi.gov/topic/surfacewater/swdv/">http://dnr.wi.gov/topic/surfacewater/swdv/</a>  <b>Note:</b> The applicant may request that these time period restrictions be waived by the department on a case-by-case basis, by submitting a written statement signed by the local department fisheries biologist, documenting consultation about the proposed dredging project, and that the local department fisheries biologist has determined that the requirements of this paragraph are not necessary to protect fish spawning for the proposed project.	
All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.  The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters	

shall not be used on other non-infested waters.

- Inspect and remove aquatic plants, animals, and mud from your equipment.
- Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
- Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.

Wash your equipment with hot (>104° F) or high pressure water, steam clean or allow your equipment to dry thoroughly for 5 days.

Follow the most recent department approved washing and disinfection protocols and department approved best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. These protocols and practices can be found on the Department website at <http://dnr.wi.gov/topic/Invasives/bmp.html> Keyword: "equipment operator" and at <http://dnr.wi.gov/topic/Invasives/documents/EquipOper.pdf>

**To Apply:**

Once your application is complete, submit using the online system, or mail it to the permit intake address based on the county where your project is located. If you have questions or problems filling out or completing the application requirements, contact the Water Management Specialist for your county.

Permit intake addresses and Water Management Specialist contact information can both be found at the following web link: [http://dnr.wi.gov/topic/Waterways/about\\_us/county\\_contacts.html](http://dnr.wi.gov/topic/Waterways/about_us/county_contacts.html)



Dave Cline, on behalf of Flambeau Mining Company, is hereby granted under Section 30.123(7) and 281.36, Wisconsin Statutes, a permit to construct a culvert across an unnamed tributary(Stream C) to the Flambeau River, and a general permit to restore or enhance a wetland adjacent to the aforementioned stream, in the Town of Grant, Rusk County, also described as Section 9, Township 34 North, Range 6 West, subject to the following conditions:

**WETLAND RESTORATION ELIGIBILITY STANDARDS**

- (a) The project purpose is wetland conservation.
- (b) The project proponent has demonstrated that site conditions exhibit impacts to topography, soils, native vegetation or hydrology that have degraded a wetland and are potentially reversible.
- (c) The project proponent has demonstrated that the project involves only listed wetland conservation activities as specified in s. NR 353.05 or that the proposed activity is maintenance of a preexisting wetland conservation project under s. NR 353.10.
- (d) The project does not involve any activities in navigable waters with prior stream history, or is otherwise determined to not cause significant adverse impacts to those waters. The project does not cause significant adverse impacts to a cold water community, as defined in s. NR 102.04 (3) (a).
- (f) The project does not cause significant obstruction of fish passage to existing spawning areas.
- (g) The project does not cause significant adverse impacts to state threatened or endangered resources.
- (h) The project does not cause significant adverse impacts to historical or cultural resources and will comply with s. 44.40, Stats.
- (i) Any proposed dikes, embankments or low berms as defined in s. NR 353.05 (3), will have a height of less than 6 feet measured from natural ground to design top of the structure and will result in less than 50 acre-feet total storage, and have been designed by a professional engineer registered in the state of Wisconsin or submitted by a county, state or federal agency. A project with a design embankment height 2 feet or less above the natural ground and with less than 50 acre-feet of storage does not have to be designed a professional engineer.

- (j) The project does not involve the planned introduction of non-native or invasive wetland plants.
- (k) The project does not involve the control of native wetland plant species unless the project proponent has demonstrated that the activity is to maintain a wetland community or to diversify a monoculture or a monotypic stand of invasive wetland plants. Removal of monotypic stands of invasive herbaceous vegetation may include excavation only if incidental soil removal and deposition occurs on uplands or like monoculture adjacent to the area of removal.
- (l) Project proposals which include activities listed in s. NR353.05 (3) to (5) and have existing wetlands on or adjacent to the project area are eligible for the shortform wetland conservation permit only if both of the following conditions are met:
  - I. Agricultural crops, invasive wetland species or early successional hydrophyte species dominate the project area.
  - II. The proposed activities will not cause significant adverse impacts to undisturbed wetland plant communities on-site or adjacent to the project area.
  - III. NR 353.05(4) includes Removing soil and vegetation or post European settlement deposition that has accumulated over historic wetland soils or creating micro-topography to enhance hydrologic diversity including shallow scrapes, channels, submerged islands and interconnected open water areas.

#### PERMIT

1. The project proponent shall maintain the project in compliance with the terms and conditions of the shortform wetland conservation permit, NR 353 Wis. Adm. Code and applicable statutes. The applicant may conduct maintenance activities described in the application without any further approval by the department.
2. Approvals issued in compliance with NR 353 Wis. Adm. Code and applicable statutes are valid only if all other necessary approvals are received from local, state or federal jurisdictions.
3. Wherever possible, project sites should include an adjacent zone of vegetated upland pursuant to NRCS Technical Guide Standard Conservation Practice 657–Wetland Restoration (9/00), unless the site conditions or configuration will not accommodate such a zone.
4. Any removed vegetation or soil shall be deposited on uplands or used in other approved wetland conservation activities.
5. During project establishment, all applicable provisions of NRCS Technical Guide Standard Conservation Practice 657 shall apply. Applicable practices shall be those that adequately control or prevent erosion, and prevent damage to waterways and

wetland soils. Where purple loosestrife (*Lythrum salicaria*); reed canary grass (*Phalaris arundinacea*) or common reed (*Phragmites australis*) are present, equipment washing or other practices to prevent accidental dispersal shall be utilized.

6. If the department determines that species of special concern listed in the Wisconsin natural heritage inventory are known to be present in the project area, the department may notify and advise the applicant of reasonable activities to prevent significant adverse impacts or to enhance the habitat for the species of concern. Notification and recommendation shall take place within the permit review period specified in ch. NR 300.
7. You must notify Kyle McLaughlin at phone (715) 365-8991 or email Kyle.McLaughlin@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
8. You must complete the Wetland Restoration project as described on or before 07/02/2020. You must complete the culvert replacement project as described on or before 07/02/2018. If you will not complete the project by this date, there is no opportunity for an extension and you must apply for a new permit.
9. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
10. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
11. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
12. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
13. You must post a copy of this permit at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

14. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
15. The permittee shall maintain the project in good condition and in compliance with the terms and conditions of the permit, NR 320 and 326 Wis. Adm. Code, and Ch. 30.206 and 281.36 Wis. Stats.
16. This project shall comply with all conditions identified in Wisconsin Administrative Code NR 320 and NR 353, and identified in the Instructions for the General Permit application for a culvert without a professionally engineered design and the wetland conservation permit.
17. You must submit a series of photographs to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.
18. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
19. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Admin. Code. The technical standards are found at:  
[http://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](http://dnr.wi.gov/topic/stormwater/standards/const_standards.html).
20. All equipment used for the project, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile, and pumps shall be decontaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>104° F) and/or high pressure water,  
- OR -  
Allow your equipment to **dry thoroughly for 5 days.**

## FINDINGS OF FACT

1. Dave Cline, on behalf of Flambeau Mining Company, has applied for a permit to construct a culvert across an unnamed tributary(Stream C) to the Flambeau River, and a general permit to restore or enhance a wetland adjacent to the aforementioned stream, in the Town of Grant, Rusk County, also described as Section 9, Township 34 North, Range 6 West.
2. The project will consist replacing an existing 48” culvert located under Copper Park Lane with a 60” culvert embedded in the stream, complete with inlet and outlet riprap protection, and will also consist of the removal of approximately 4705 square feet of topsoil within the wetland for the purpose of targeting removal of locations where metals concentrations were found to be higher than areas adjacent. The project will also consist of vegetation management, including reed canary grass removal through herbicide application and burning, and replanting with native wetland vegetation using light disking, no-till seeding, and rolling.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
4. Stream C, an unnamed tributary to the Flambeau River, is a navigable water.
5. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
6. The proposed project, if constructed in accordance with this permit will not adversely affect wetlands.
7. The structure or deposit will not materially obstruct navigation.
8. The structure or deposit will not be detrimental to the public interest.
9. The structure or deposit will not materially reduce the flood flow capacity of a stream.
10. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 1.11, 30.2065, Wisconsin Statutes and Chapters NR 102, 103, 150, 299, and 353 of the Wisconsin Administrative Code.

## CONCLUSIONS OF LAW

1. The Department has authority under ch. 30 and 281.36, Wis. Stats., and ch. NR 320 and 353 Wis. Adm. Code, to issue a permit for the construction and maintenance of this project.

2. The Department has complied with s. 1.11, Wis. Stats.

### NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated at Northern Region Headquarters (Rhinelander), Wisconsin on July 10, 2015.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By   
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Kyle McLaughlin  
Water Management Specialist