

# Midwest Environmental ADVOCATES

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## **LCO TRIBE TAKES ON MINING COMPANY AND WINS**

HAYWARD, WI – On June 4<sup>th</sup>, 2007, the Tribal Governing Board for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (LCO Tribe) approved a settlement with the Flambeau Mining Company and the Wisconsin Department of Natural Resources that provides for protection and monitoring of waters in the ceded territory. The settlement was approved by all parties to the case, including the Sierra Club, Northern Thunder and the Flambeau Mining Company, as of yesterday, marking a victory for the environmental community in the effort for clean water.

Flambeau Mining Company mined copper and gold near Ladysmith, Wisconsin, during the 1990s, and had petitioned the DNR for a Certificate of Completion (COC) of reclamation for the entire mine site. The LCO Tribe and others brought a legal challenge against the issuance of the COC, arguing that the company had polluted a navigable stream with toxic levels of copper.

“At the contested case hearing last week in Ladysmith, the parties reached a stipulated agreement that requires the company to clean up the water it has polluted and monitor the mine site for five years,” according to Louis Taylor, Chair of the LCO Tribal Governing Board.

Agnes Fleming, also a member of the LCO Tribal Governing Board, said, "This is precedent setting. The preservation of our water, air, our earth, is essential. It is essential to our life as Anishinabe people."

"I'm pleased with the required monitoring," said John Coleman, Environmental Section Leader and Environmental Modeler for the Great Lakes Indian Fish & Wildlife Commission (GLIFWC). He added, "The mine company agreed to monitor surface water, sediments, soil and biota over the next five years, which the LCO Tribe and others sought in an effort to clarify the source of elevated copper found in runoff from the site."

"Flambeau Mine Company also withdrew its COC petition for the portion of its site that contained mine buildings and the rail loading area, which is the area where pollution was a documented concern, and they cannot have that part of the mine considered under another COC petition for at least three years," according to Melissa K. Scanlan, Executive Director of Midwest Environmental Advocates and the attorney representing the LCO Tribe in this matter. "We expect they will make sure their mine site is free of water pollution before they come back to the DNR with another petition saying they have reclaimed the site," she added.

Mic Isham, a member of the LCO Tribal Governing Board, said, "I consider this a victory over a large multi-billion dollar corporation." Another LCO Tribal Governing Board member, gaiashkibos ("Gosh"), observed that, "It is a limited victory for the people of Wisconsin and the Anishinabe because the natural resources are still at risk, the water, the air, wildlife, fish. Time will tell. If mining reclamation in the state of Montana is an indication of things to come, then, the people of Ladysmith and Rusk County and those down stream will have to deal with pollution for decades to come."

## **FAST FACTS**

- The stipulation was reached on May 31, 2007, during the contested case portion of the COC process held in Ladysmith, Wisconsin. All parties to the stipulation have until June 13, 2007, to ratify the agreement.
- A reclamation bond of \$2.2 million dollars remains to protect the state against liability for reclamation.
- A partial COC was granted for the 149-acre portion of the reclaimed site.
- The parties who challenged the Flambeau Mining Company in the contested case included the Lac Courte Oreilles Band of the Lake Superior Chippewa Indians, Sierra Club, Northern Thunder, Rusk County Citizens Action Group, and Wisconsin Resources Protection Council. Glenn Stoddard represented the Sierra Club and Wisconsin Resources Protection Council in this matter.
- The Lac Courte Oreilles Band of the Lake Superior Chippewa Indians (LCO Tribe) is a federally recognized Tribe that is a signatory or successor to the Treaty of 1837 among others. In the Treaty of 1837, the signatory Tribes ceded lands to the United States in north central Wisconsin and reserved the right to hunt, fish and gather in the territory ceded. The Flambeau Mine site is located in the ceded territory where LCO Tribal members have treaty rights.
- Midwest Environmental Advocates provided legal representation to the LCO Tribe in its challenge to the Flambeau Mining Company's petition for a COC. Midwest Environmental Advocates is a non-profit environmental law center that works for clean air and water.
- GLIFWC is an intertribal natural resource management agency made up of eleven Ojibwe (or Chippewa) with reservations in Michigan, Minnesota and Wisconsin. GLIFWC provided scientific support to the LCO Tribe in its efforts to protect treaty waters from mining pollution.