

## CONDITIONAL LAND USE PERMIT

### (1) GENERAL CONDITIONS.

Rusk County, a quasi-municipal corporation, duly organized under the laws of Wisconsin, hereby grants to Kennecott Explorations (Australia), Ltd., a Delaware corporation, the following Conditional Land Use Permit. Said permit is granted pursuant to the powers vested in Rusk County under Secs. 59.025, 59.07, 59.97 and 144.839, Stats., and constitutes an exercise of said county's authority to plan for and zone as to land uses within its corporate limits under the general auspices of its police powers. Said powers have been exercised in accord with Secs. 59.97, 66.30 and 144.839, Stats., and under the Rusk County Comprehensive Zoning Code, adopted April 20, 1971, as amended, from time to time thereafter, to and through the date of this permit. In addition, the Town of Grant, a civil town organized under the laws of Wisconsin, having, through its Town Board, elected to participate in County Comprehensive Zoning on or about June 14, 1982, and having elected to participate in the Local Agreement under Sec. 144.839, Wis. Stats., said Comprehensive Zoning Code and the exercise of County Zoning Powers as to the instant land use which is situated, either as a whole or in part, in the Town of Grant as of the date of issuance of this permit, is deemed to be effective under Wisconsin law.

This permit shall be interpreted and applied as a Conditional Use Permit, in accord with the definition of the term "conditional use" at Secs. 2.1(6) and 7.1 (Preamble) of the Rusk

County Comprehensive Zoning Code (hereinafter "Comprehensive Zoning Code"). As such, the Permit Holder shall strictly conform its activities and land uses to the terms of this permit.

Administration of this permit shall, at all times, be subject to the control of the Rusk County Zoning Committee, or its successor, a standing committee of the Rusk County Board of Supervisors, appointed pursuant to Sec. 59.06, Stats.

In accord with Sec. 59.97(1) and (11), and 144.839, Stats., the purpose of this permit grant shall be to promote the public health, safety and general welfare of the residents of the County, while at the same time allowing to the Permit Holder the right, subject to the limitations expressed herein, to engage in the described land use of property which it owns in Rusk County.

This permit implements a Local Agreement which was duly entered between Rusk County, the Town of Grant, the City of Ladysmith and Kennecott Explorations (Australia), Ltd., on August 1, 1988; and was duly approved of by the Rusk County Board on July 22, 1988, by the Ladysmith City Council on August 1, 1988, and by the Town Board of the Town of Grant on July 25, 1988.

(2) DEFINITIONS.

The following definitions, unless the context dictates otherwise, shall be used in interpreting and applying the provisions of this Conditional Use Permit:

(a) "Active Mine Area" shall refer to that real estate described at page 2 of the Local Agreement, whose legal description is as set forth at Sec. 3. of this permit.

(b) "Comprehensive Zoning Code" shall mean that code of ordinances duly adopted by the Rusk County Board of Supervisors pursuant to Sec. 59.97, Wis. Stats., et al., which generally governs, from a planning and zoning standpoint, the use of lands in unincorporated areas in said county in towns which have ratified said zoning code.

(c) "County" shall mean Rusk County, State of Wisconsin.

(d) "Disturbed Sites" shall mean any site which, during the course of construction, operation or closure shall have had its topography, surface grade and vegetation altered, removed, destroyed or disturbed, each of which site shall be within the Active Mine Area.

(e) "DNR" shall mean the Wisconsin Department of Natural Resources.

(f) "Local Agreement" shall mean that agreement entered into between Rusk County, the City of Ladysmith, the Town of Grant and the Permit Holder pursuant to Sec. 144.839, Wis. Stats.

(g) "Mining Activities" shall mean any and all land use activities engaged in under this permit related to a creation of, taking of ore from, and re-filling of the open pit to be situated on site and appurtenant activities and land uses associated therewith.

(h) "Mining Permit" shall mean the permit procured by the Permit Holder under Ch. NR132 Wis. Adm. Code.

(i) "Operator" shall mean the Permit Holder under this Conditional Use Permit.

(j) "Permit Holder" shall mean the individual or corporation or his or its assignee, transferee or conveyee

operating subject to this Conditional Use Permit.

(k) "Stats." or "Wis. Stats." shall mean the Wisconsin Statutes.

(l) "Type I Wasterock" shall refer to that wasterock generated in the course of mining activities and removed from the open pit which does not contain an incidence of sulfide mineralization requiring storage and treatment in the same manner as Type II Wasterock so as to prevent water contamination. Type I Wasterock shall be backfilled, subject to DNR approval, into the mine during the closure phase.

(m) "Type II Wasterock" shall refer to that wasterock to be generated in the course of the mining activities and removed from the open pit which contains an incidence of sulfide mineralization sufficient to cause a leachate which requires treatment pursuant to DNR regulations. Such wasterock shall be stored in accord with the terms of the Local Agreement and backfilled, subject to DNR approval, into the mine during the closure phase.

(n) "Wis. Adm. Code" shall refer to the Wisconsin Administrative Code.

(o) "Zoning Administrator" shall mean that administrative official or employee of Rusk County, duly designated by the county board to administer its zoning code.

(p) "Zoning Committee" shall mean that standing committee designated by the Rusk County Board of Supervisors, within its realm of delegated authority, to administer the Zoning Code on behalf of the Board of Supervisors.

(3) LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE INSTANT PERMIT

All that part of Section 9, Township 34 North, Range 6 West, Rusk County, Wisconsin, lying East of the Flambeau River and South of Blackberry Lane.

This permit also authorizes construction and operation of a rail spur, approximately one mile in length, to be located in part of Section 10, Township 34 North, Range 6 West, Rusk County, Wisconsin, lying West of the main line of the Wisconsin Central, Ltd., as generally shown in the scale map of the site plan, Exhibit "A".

It is understood by the County that until the DNR issues to the Permit Holder its NR132 permit, the legal description of the Railway Spur Line as set forth above will be tentative only. It is possible that the DNR may approve of an alternate right-of-way, in which instance without the need for further approval from the Zoning Committee, the official County zoning map shall be changed to reflect the relocated railway right-of-way and its zoning district designation under Section (5) of this permit.

(4) PERMIT HOLDER.

The Permit Holder shall be Kennecott Explorations (Australia), Ltd., a Delaware corporation, or its successor in interest. The Permit Holder agrees and understands that the rights herein afforded to it are assignable or transferable only in accord with Sec. 19 of the Local Agreement. Upon any sale, transfer, lease or assignment of rights by the Permit Holder to a third party relative to the real estate subject hereto or of the transfer of rights or responsibilities relative to the commencement, continuation or closure of any operations maintained on

said real estate in accord with this permit, all rights set forth under this permit shall then and there cease and be deemed unenforceable by the said transferee, assignee or conveyee, unless full compliance with the terms and conditions of Sec. 19 of the Local Agreement is demonstrated. All the terms and conditions of this permit shall be enforced against transferees, assignees or conveyees. The granting of this permit is based upon the underlying assumption that the Permit Holder qualifies to hold a mining permit under Sec. 144.85, Stats., continues to hold a valid mining permit thereafter and that, in the event of a sale, transfer or conveyance of the mine, that the proposed transferee, assignee or conveyee shall be in full compliance with Sec. 144.87(2), Wis. Stats. Should the DNR notify the Zoning Committee of a violation of said statute, it shall constitute cause for potential revocation of or the imposition of additional conditions hereupon in the discretion of the said committee in accord with Sec. (16) of this permit.

(5) ZONING CLASSIFICATION.

In accord with the Comprehensive Zoning Code, the zoning classification for the property described at Sec. (3), above, shall be that of the I-1, Industrial District.

(6) SETBACK REQUIREMENTS.

The following express setback requirements shall apply and pertain to land uses and the erection of structures upon the property described at (1), above.

(a) Subject to Department of Natural Resources of the State of Wisconsin (hereinafter "DNR") approval of variances under

NR132, Wis. Adm. Code, the following specific setbacks shall apply:

1. Highway setbacks from State Highway 27: 150 feet.
2. Setback from the Flambeau River; the minimum shall be as shown for the open pit on the scale map of the Active Mine Area shown in the site plan, Exhibit "A", which is 140 feet from the bank of the river as it existed on June 1, 1988.

In the absence of approval of said variances, the setbacks required under NR132, Wis. Adm. Code, shall be the minimum requirements to be met relative to the specific setbacks set forth above. Additionally, such other setbacks set forth at NR132 or variances therefore approved by the DNR, shall also apply. In addition, the following setback requirements shall be met: Setback from Blackberry Lane 63 feet from the centerline or 30 feet from the right-of-way line, whichever is greater. Minor, readily removable structures, such as open fences or signs may be placed within the setback lines. Public utility equipment without permanent foundations is also permitted. When deemed necessary by the Zoning Committee in conjunction with development, such as highway improvement programs, the Permit Holder and public utilities may be required to remove, at their own expense and without right of compensation, any such structures erected within the setback lines.

(b) In each quadrant of every street or highway intersection, there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them 300 feet from any intersection with State Highway 27, and 200 feet

from any intersection with Blackberry Lane. If two (2) highways of a different class intersect, the largest distance shall apply to both centerlines. Within this triangle, no object over 2 1/2 feet in height above the level of the streets shall be allowed if it obstructs the view across the triangle. Posts and open fences are excluded from this prohibition.

(c) Tree trunks shall be exempt from the visual clearance provisions set forth above when they are unbranched to a height of 10 feet and located a minimum of 30 feet apart.

(d) Where different from the setbacks identified at (a), above, as to the Active Mine Area, the setback from adjacent properties set forth at paragraph 4 of the Local Agreement shall control.

(e) With respect to both setbacks and site plan approval, the scale map of the Active Mine Area is incorporated herein by reference.

(f) In the event of any conflict between the setback requirements for purposes of procuring a mining permit, as imposed upon the Permit Holder by the DNR under NR132, Wis. Adm. Code, and those set forth herein, the more strict of said setback requirements shall be enforced, except in situations where the DNR has approved a variance.

(g) It shall be required of the Permit Holder that it shall, at its sole expense, survey, mark and delineate, by the placement of appropriate, permanent markers, each of the setback lines set forth above or incorporated herein by reference, with reference to highways, the Flambeau River and such other natural



or artificial boundaries of the parcel subject to this permit as are required in order to demonstrate compliance with the setback conditions herein established.

(h) The setback requirements herein expressed shall not apply to the Railway Spur Line serving the Active Mine Area.

(i) The setback requirements set forth herein shall not apply to what is commonly referred to as the "old H & H Building," it having been located on the site subject hereto prior to the granting of this permit; provided, however, that said structure is hereby designated as a non-conforming structure. Structural repairs or alterations of it shall not exceed 50 percent of its assessed valuation as of the time it became non-conforming in June, 1982. In the event that use of the structure ceases for one (1) or more years, after ore shipment starts, it shall be considered to be abandoned and all use of it shall be permanently discontinued.

(7) FENCING AND SECURITY PROVISION REQUIREMENTS.

The Permit Holder shall, at all times, from and after commencement of construction of its mine site and appurtenant facilities, provide fencing of the Active Mine Area and/or security measures, consistent with the definition of "security fences" and Section 3(c)(4), Section 5, Sections 6 and 11(f) of the Local Agreement, each of which are incorporated herein by reference. This requirement shall apply solely with respect to the Active Mine Area. The Railway Spur Line need not be fenced outside of that location.

The maintenance of such fencing and security provisions shall be a condition of this permit to be observed at all times

until the end of the reclamation period during the closure phase of operation by the Permit Holder.

(8) TRANSPORTATION RESTRICTIONS; ACCESS RESTRICTIONS.

The following restrictions, incorporated herein by reference from the Local Agreement, shall apply regarding transportation of ore from the Active Mine Area subject to this permit and, additionally, as to the means of access to and from the Active Mine Area.

(a) The primary means of transportation from the Active Mine Area shall be via railway, in accord with paragraph 10 of the Local Agreement.

(b) Emergency means of transportation: Availability of trucks for transportation purposes, to be limited by sections 10 and 11 of the Local Agreement.

(c) Access restrictions. The means of access to the Active Mine Area shall be limited as follows:

1. As set forth at sections 10 and 11 of the Local Agreement.

2. Construction of access driveways, streets or highways:

a. Shall be subject to town road standards as to construction, maintenance and repair.

b. Zoning Code Requirements Applicable. Access roads, streets or driveways constructed from the Active Mine Area to public highways abutting the land subject to this permit shall comply with the following requirements:

<u>Highway:</u>	<u>Minimum Distance of Highway Frontage Between Access Roads:</u>
State Highway 27	600 feet
Blackberry Lane	75 feet

The maximum number of access roads, driveways or streets connecting with each public highway abutting the Active Mine Area shall be two (2). This restriction, however, shall not prohibit the construction of an additional driveway from S.T.H. 27 to be used as access to a possible mine overlook for sightseers.

(9) PROHIBITION AS TO SMELTING, REFINING OR PROCESSING OF ORE.

There shall be no smelting, refining or processing of ore extracted from the subject mine, at any location within Rusk County, Wisconsin.

(10) PARKING AVAILABILITY.

As and for each building constructed under this permit, sufficient off-street parking spaces shall be provided for employee, agent and guest automobiles and trucks. Each parking space shall be at least 200 square feet in area. The actual number of spaces required shall be determined on the basis of projected office space and the number of anticipated employees and guests. Said determination shall be reviewed by the Zoning Administrator. In addition, the Permit Holder shall provide a sufficient area or areas within the Active Mine Area for storage of or parking of trucks, graders, earth moving equipment and other vehicles which may be used from time to time on the premises for purposes associated with the mining operation.

(11) LOCATION, HEIGHT, SIZE OF BUILDINGS AND OTHER STRUCTURES.

(a) To be limited to the approved site plan locations; subject, however, to the following understanding: the site plan incorporated herein by reference is preliminary in nature only. So long as both in number, size and location, structures which are ultimately built or constructed in the Active Mine Area do not substantially change the preliminary plan or substantially alter the scope of the project, changes as to structure locations shall be allowed without further approval of the committee. Any monitoring facilities mandated by the DNR are hereby approved and are not subject to these limitations.

(b) This permit shall include authorization to the Permit Holder to erect the following structures, each of which may exceed thirty-five (35) feet in height, but shall not exceed seventy-five (75) feet in height: Crushing facilities, stacker, ambient air monitors, storage piles, radio tower, water treatment facility and other structures as may be agreed upon by the Permit Holder and the County.

(12) INCORPORATION BY REFERENCE OF ALL APPLICABLE STATE AND FEDERAL REGULATIONS AS TO COMPLIANCE THEREWITH, SUBJECT TO EXPRESS VARIANCES, IF GRANTED, BY PERMIT AUTHORITIES.

The use of the Active Mine Area shall, in addition to being subject to the express terms hereof, be subject at all times to the application of all relevant state and federal regulations and strict compliance by the Permit Holder therewith, subject only to the exception of such express variances, if any, which are granted by the enforcement authorities. In the event the Permit Holder seeks a variance from any such regulation, it shall

provide written notice to the Zoning Committee. In turn, the participating local governments could provide comments to or present evidence to the granting authority as to the appropriateness of the variance or variances requested. Variances which have been identified thus far are as follows:

(a) A variance from NR132.18(1)(d), Wis. Adm. Code as to the construction of a dike which would partially exist in the flood plain to provide additional protection against flooding of the mine during a 100-year storm.

(b) A variance from NR132.18(1)(f), Wis. Adm. Code as to the disturbance of several small wetland areas in the vicinity of the ore body.

(c) With reference to (6), above, as to setbacks, those specific variances sought under NR132.18(1)(e), and NR132.18(1)(c), as to setbacks from State Highway 27 and the Flambeau River and unnamed streams A, B and C.

This permit is further subject to strict compliance by the Permit Holder with all permit requirements imposed under NR132 and NR182, Wis. Adm. Code, as deemed to be applicable by the DNR and such other state and federal regulations and statutes governing mining, in general, and environmental controls of the state and federal governments as are incorporated therein by the State of Wisconsin by statute or Administrative Code provision or variances thereto.

(13) MINE WATER TREATMENT PLANT.

A mine water treatment plant, whose purpose shall be to treat ground and surface water and precipitation which comes in contact with sulfide mineralization sufficient to produce a

leachate which does not meet with state discharge standards, during the course of operation subject to this permit, shall be constructed, maintained and operated by the Permit Holder, pursuant to and in accord with DNR regulations and requirements.

(14) BLASTING LIMITATIONS.

The following conditions and limitations shall apply to blasting and the use of explosives:

(a) Explosives shall be stored in strict compliance with all applicable state and federal laws and regulations, including but not limited to ILHR 7.20 to 7.23, Wis. Adm. code.

(b) No explosions shall be detonated except between 8:00 a.m. and 6:00 p.m., or between sunrise and sunset, whenever sunrise is later than or whenever sunset is earlier than the above designated times, Monday thru Saturday only.

(c) No explosions shall be detonated on the surface of the ground at the mine site, surface being described as the elevation of the ground as it existed on January 1, 1988.

(d) All explosions shall be detonated in such a manner as to control noise, particle displacement and ground vibration, and subject, specifically, to strict compliance with ILHR 7.64, Wis. Adm. code.

(e) Seismographic monitoring shall be required to be maintained in accord with ILHR 7.64 (4) (b) 3. and (d) 2., Wis. Adm. Code.

(f) No explosion shall be detonated which will result in a maximum peak particle velocity of the ground motion in any direction in excess of the standards at ILHR 7.64 (b) 1., Wis. Adm.

Code.

(g) In blasting, the Permit Holder shall at all times, comply with all applicable state and federal laws and regulations or variances therefrom.

(h) In accord with ILHR 7.37, Wis. Adm. code, the Permit Holder shall keep accurate records of times and locations of all explosions set off by it in the area covered by the permit as well as of the type and amount of explosive used for each hole, the size of the charge and the delay between charges. Said records shall be furnished to the Zoning Administrator upon request.

(i) For purposes of implementing this Conditional Use Permit, the County hereby adopts by reference all other applicable provisions of ILHR 7, Wis. Adm. code, not expressly set forth herein, to the effect that ILHR 7 shall, in accord with ILHR 7.35 (2), Wis. Adm. Code, constitute a local regulation to be complied with by the Permit Holder. In accord with ILHR 7.35 (3), Wis. Adm. code, the site of the proposed blasting shall be considered to be in a "community", as defined at ILHR 7.04 (10), Wis. Adm. code, for purpose of requiring and implementing the notification provisions therein set forth.

(j) It is the further understanding of the Zoning Committee that the Permit Holder will be using a fertilizer base explosive consisting of ammonium nitrate and fuel - oil and/or dynamite and that use of the term "explosive" or any form thereof in this permit shall refer expressly thereto. Should the Permit Holder, at any time during the life of this permit, seek to change the type of explosives to be utilized, it shall first

advise the Zoning Committee which shall not unreasonably withhold consent if compliance with all criteria of this portion of the permit shall, with such change, still be maintained.

(15) INSPECTION POWERS OF ZONING ADMINISTRATOR.

The County Zoning Administrator (hereinafter "Zoning Administrator") and his or her duly authorized agents shall have inspection powers and authority for the purposes of ascertaining compliance with the terms of this permit, which powers shall include but not be limited to the following:

(a) Access to any and all portions of the subject premises and any structure situated thereupon in order to perform his duties under the Comprehensive Zoning Code and this permit. The Permit Holder hereby consents to said entry between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, with the exception of legal holidays. At all other times prior arrangements shall be made with the Permit Holder by the Zoning Administrator for entry. In the event that the Permit Holder shall refuse a reasonable request for the right of entry, after reasonable notice, for any or no reason whatsoever, excluding reasons related to hazards, and for any or all of the purposes germane to and allowable under Sec. 66.122, Stats., the County and the Zoning Administrator may avail themselves of the right to obtain a special inspection warrant or warrants for inspection purposes.

(16) ENFORCEMENT OF ALLEGED VIOLATIONS.

(a) Included within this general category shall be:

1. Violations of the terms of this permit.
2. Violation of the terms of any state or federal



permit granted with respect to the mine.

3. Violation of any provision of the Comprehensive Zoning Code except that portion thereof designated as the "Rusk County Mineral Mining Code", Sections 6.3 through 6.11 inclusive of the Comprehensive Zoning Code, and any such other provisions of the Comprehensive Zoning Code which are inapplicable under the Local Agreement or are expressly or impliedly waived herein, if any.

4. Public nuisances constituting real and imminent dangers to public health, safety, and welfare created by operations maintained under this permit.

5. The building of, moving or substantial alteration of any structure (excluding removal) in the Active Mine Area which is not in substantial conformity with the approved of preliminary site plan incorporated by reference in this permit. This is subject, however, to the following understanding: The site plan incorporated herein by reference is preliminary in nature only. So long as, in number, size, location and degree of alteration, structures which are ultimately built or constructed during one of the three phases subject to this permit do not substantially change the preliminary plan or substantially alter the scope of the project, changes as to structure locations, construction or alteration shall be allowed without further approval of the committee and, hence, shall not constitute violations of this permit.

6. The use of any portion of the Active Mine Area which is not in substantial conformity with the approved site plan incorporated by reference under this permit.

(b) Remedies in the event of violations: Remedies may include, but not be limited to the following:

1. Temporary and permanent injunctive relief;
2. Damages, if any, sustained by Rusk County;
3. Imposition of a forfeiture in accord with (c), below;
4. Such other and further relief available to the County under Wisconsin law;
5. Revocation of this permit; or
6. The imposition of additional conditions not included in the original permit.
7. Relief with respect to items 1 - 4, above, may be obtained only through Court action.

(c) Forfeitures. Each violation of this permit and of the Comprehensive Zoning Code and of federal or state permits granted with respect to the contemplated mining operation shall be subject to the imposition upon the Permit Holder of a forfeiture in the amount of from \$200.00 to \$1,000.00 for each day that the violation continues, plus reasonable costs of prosecution should the County prevail. The period of time during which forfeitures may be assessable shall commence running with the first day after the end of the compliance period allotted to the Permit Holder pursuant to (d) of this section in the event that the Permit Holder fails to conform its land use activities to the directions of the County. In the event of a default in payment of any such forfeiture as assessed by a Court, unless a stay of payment is provided, the instant Conditional Use Permit shall be subject to termination at the discretion of the Zoning Committee. Each day

a violation continues to exist shall constitute a separate violation. Resort to this remedy shall not be construed as limiting the County from resorting to any other remedies set forth at (b), above.

(d) Notices; Hearings; Right To Cure Performance.

1. Prior to instituting legal action, except as to public nuisances under (a)4., above, which are causing a real and imminent danger to public health, safety and welfare, the Zoning Administrator shall serve a written notice on the Permit Holder's designated representative of the nature of the alleged violations. The Permit Holder shall have 20 days to respond, either acknowledging the existence of the violations and setting forth its proposal to cure the same or expressly denying the allegations. In the event that the Permit Holder fails to respond or if its response is insufficient to cure the alleged violations, the Zoning Committee may authorize pursuit of a remedy or remedies under (b), above. Under no circumstances, however, shall the permit be revoked without the holding of a due process hearing. In the event that the Permit Holder's response to the notice is satisfactory, it shall be given a reasonable period of time by the committee in which to conform its land use activities to the terms of this permit. Should it fail to do so, the County may resort to the remedies at (b) above.

(17) PERMIT COVERAGE.

This permit shall cover the following phases of operation:

- (a) Construction;
- (b) Mine operation;

(c) Mine closure.

Subject to reopening in accord with (29), of this permit, this permit shall be valid for that period of time, commencing with the date of issuance hereof, defined further as that date no later than forty (40) days after ratification of this permit by the Rusk County Board of Supervisors or the date upon which the Town Board of the Town of Grant approves of the herein contained zoning district boundary change, whichever occurs first, in accord with Sec. 59.97 (5) (e) 6., Wis. Stats., and continuing for the duration of the three phases of operation as set forth above for a period not to exceed forty (40) years. The construction phase shall be first and its approximate duration shall be ten (10) months. Then shall follow the mine operation phase during which ore may be extracted and shipped and reclamation may begin and its approximate duration shall be five (5) years. Finally, the mine closure phase shall take place during which all reclamation and site restoration activities shall be completed, and, during which, environmental monitoring shall take place. In accord with the reclamation plan filed with and approved of by the DNR, during and immediately after the mine operation phase, the Permit Holder shall take the necessary steps to refill the open pit to the approximate grade which existed on June 1, 1988. The Permit Holder shall be required to complete its construction, mine operation and open pit refilling and site restoration activities within the first fifteen (15) years after the DNR has granted to it its NR132 permit. Should it be unable to do so, it shall be required to petition the County for an extension. Permission to so extend shall not unreasonably be withheld by the

Zoning Committee. Subsequent to the said fifteen (15) year period, or completion of pit refilling and site restoration, whichever occurs first, environmental monitoring shall continue for the remainder of the permit life or until concluded, whichever occurs first. Unless an extension of the permit life is requested as a permit modification under Sec. (29) of this permit, for mine closure purposes only, all special uses and entitlements under this permit shall cease at the conclusion of environmental monitoring or the passage of forty (40) years, whichever occurs first. Subject to the fifteen (15) and forty (40) year limitations, which shall be enforced, the time periods expressed herein for each phase shall be deemed to be approximations only. Nonetheless, once the shipping of ore during the mine operation phase has been concluded, the Permit Holder shall not be entitled to recommence the extraction and shipping of ore unless and until a renegotiated Local Agreement and modified Conditional Use Permit has been granted. The effective date, as expressed herein, shall be controlled by and subject to the provisions of (32), below.

(18) SIZE AND SCOPE LIMITATIONS.

This permit is conditioned upon the mine remaining within and not exceeding the limitations expressed at paragraphs 3.b. and c. and 24. of the Local Agreement.

(19) LIAISON TO THE COMMITTEE; REPORTS.

(a) The Permit Holder shall designate a qualified representative, familiar with all aspects of the mine, to act as a liaison to the Zoning Committee. His or her function shall be

to respond to requests for information and to advise both the Committee and Zoning Administrator as to the status of the mining operation, from time to time. Said representative shall also be designated by the Permit Holder to receive written notices of alleged violations of this permit under Sec. (16) above.

(b) The Permit Holder shall provide to the Zoning Committee a copy of each report which it generates and provides to the Impact Committee under Section 16 of the Local Agreement.

(20) SITE PLAN.

Incorporated by reference in this permit is the Site Plan, Exhibit "A", of this permit and any monitoring facilities mandated by the DNR which are hereby approved of by the Zoning Committee. If, at any time during the life of this permit, the Permit Holder desires to substantially alter its site plan or erect additional structures beyond those identified on the site plan, incorporated herein by reference, which structures substantially vary in size, scope, height, number or use from those identified on the site plan, it shall first obtain approval of the Committee. In either granting or rejecting such alterations, the Committee shall be guided by Sec. 7.1 of the Comprehensive Zoning Code.

(21) PERMITTED USE.

This Conditional Use Permit grants to the holder the right to engage in mining activities in, upon and under the surface of the Active Mine Area, a special use. This permit also approves of the construction and operation of the Railway Spur, utility lines and access roads to serve the Active Mine Area. No other or further use of the real estate subject to this permit, not

generally allowed as a permitted use under Sec. 14.5(a)(b), of the Comprehensive Zoning Code, shall be allowed.

(22) INAPPLICABILITY OF RUSK COUNTY SHORELAND-WETLAND ZONING PROVISIONS TO ACTIVE MINE AREA.

None of the property affected by this permit is within a shoreland-wetland district under the official Rusk County Shoreland-Wetland Maps as of the date of this permit. The Shoreland-Wetland overlay zoning district is not applicable to the Active Mine Area and land uses contemplated to be made of it under this permit. In accord with Sec. 14.8.3.C.2 of the Comprehensive Zoning Code, this permit shall control use of that portion of the Active Mine Area subject to the Shoreland Overlay Zoning District.

(23) INAPPLICABILITY OF RUSK COUNTY MINERAL MINING CODE.

Pursuant to the Local Agreement, Sections 6.3 through 6.11 inclusive of the Comprehensive Zoning Code, known as the "Rusk County Mineral Mining Code" shall not be applicable to the Permit Holder, nor to its land uses granted by this permit.

(24) REVEGETATION OF ACTIVE MINE AREA.

It shall be a condition of this permit that during the closure phase the Permit Holder shall re-vegetate all disturbed sites in the Active Mine Area. To facilitate such revegetation, the Permit Holder shall, prior to the construction phase, take an inventory of the existing vegetation. In revegetating disturbed sites the Permit Holder shall use said inventory as a guide and shall plant the same or similar grasses, shrubs, trees and other vegetation. Subsequent to said revegetation, the Permit Holder shall remain responsible for and shall insure viability of what

it has planted for a period of 20 years, during which time it shall replant vegetation which fails to take hold and/or which dies.

(25) MODIFICATION OF PERMIT PROCEDURE.

In the event that subsequent to the issuance of this permit the Permit Holder desires modifications of the terms and conditions hereof including, but not limited to structural alterations, expansion of permitted uses or site plan amendments, the Permit Holder shall make an application to the Zoning Committee. In accord with Secs. 7.1 and 7.2(1), (3), (4) and (5) of the Comprehensive Zoning Code, the Zoning Committee shall issue its determination. In making such a decision, it shall not be bound by the Mineral Code, Sec. 6.3 through 6.11 inclusive, because those sections have been deemed inapplicable pursuant to the Local Agreement.

(26) FEES.

A. Upon ratification of this permit by the Rusk County Board of Supervisors, the Permit Holder shall pay a fee of \$5,000.00, which fee shall be non-refundable and the purpose of which shall be to defray the costs of the permit granting process.

B. As a further condition of the permit, the Permit Holder shall make a contribution to Rusk County for the expenses to it of permit compliance monitoring and enforcement by the Zoning Administrator. Said contribution shall be in the amount of \$750 per year. This requirement shall apply for each calendar year of construction and of mine operation. Said payment shall be made



on or before December 31 of each calendar year of construction and of mine operation.

C. Upon application for modification of this permit, the Permit Holder shall pay a non-refundable fee of \$500.00 and, additionally, shall pay all costs associated with the holding of the public hearing(s) and Zoning Committee meetings including, but not limited to per diems, costs of publication, expert witness and/or advisor fees.

D. The Permit Holder shall pay such other fees, charges and costs as are called for in this permit.

(27) PRECIPITATE DISPOSAL.

Precipitate, defined as any solid generated in the course of waste water treatment under Sec. (13) of this permit and further defined as the residue remaining after ground and surface water and precipitation which have come in contact with sulfide mineralization have been treated in accord with state water discharge standards, shall be disposed of as follows: The Operator shall store said precipitate in such a manner as to comply with Sec. (17) of the Local Agreement and shall, during or prior to the closure phase under this permit, re-deposit the said precipitate in the open pit, in conjunction with that portion of the Type II wasterock which has the highest incidence of sulfide mineralization, at the bottom of the said open pit, provided this method is approved of by the DNR.

(28) RAIL CAR AND TRUCK; ACCESS ROADS--DUST CONTROL.

The Permit Holder shall use appropriate means, consistent with Wisconsin law and regulations, to control dust from ore being transported by rail car or truck or from the passage of

trucks over unpaved access roads.

(29) REOPENING OF PERMIT.

In the event that the Permit Holder desires to reopen and extend the life of this permit, it shall make application for the same to the Zoning Committee, in writing, at least two (2) years prior to the end of the term hereof. Reopening may be granted by the Committee solely for reasons related to site reclamation. In the event that the Permit Holder desires to expand or extend the project scope, whether during or after the mine operation phase, it shall be required to apply for a new permit in accord with Secs. 7.1 and 7.2(1), (3), (4) and (5), of the Comprehensive Zoning Code, or their successors.

(30) CLOSURE PHASE: MINE SITE RECLAMATION RESPONSIBILITY OF PERMIT HOLDER.

The Permit Holder shall remain financially responsible and shall, as such, maintain its reclamation bond or other security pursuant to NR132, Wis. Adm. Code covering the mine in question for a period of not less than thirty (30) years commencing 90 days next following the date and year of actual mine closure, unless the committee receives a copy of a request to be exempted and concurs in writing with the DNR conclusion to grant said exemption, such concurrence shall not be unreasonably withheld.

(31) SCREENING OF ACTIVE MINE AREA.

To the extent possible, consistent with the Permit Holder's use and erection of structures within and surrounding the Active Mine Area and the setback requirements herein set forth, in order to minimize traffic hazards along and upon S.T.H. 27, as it passes to the east of the Active Mine Area, caused by travelers

upon said highway who wish to observe the Active Mine Area and, additionally, as an aesthetic component, the Permit Holder shall make reasonable efforts to retain the trees growing on its property adjacent to the west line of S.T.H. 27.

(32) AUTHORIZATION FOR CONDITIONAL LAND USE PERMIT.

The granting of this Conditional Land Use Permit to the Permit Holder by Rusk County, is authorized pursuant to Secs. 59.97 and 144.839, Wis. Stats., adopted in Act 399, Laws of 1987-88. It shall not be deemed to be effective, nor shall the Permit Holder consider it as conferring upon it any rights, entitlements or privileges until a public hearing has been held by each participating local government, as defined in the agreement incorporating this permit by reference, nor until each said unit of local government shall have, in open session, ratified entry into said Local agreement, nor until Rusk County, through its Board of Supervisors shall have ratified, in its capacity as the zoning authority, the granting of this permit. Only upon the occurrence of the last of these events shall this permit be deemed to be effective.

(33) ADOPTION OF THE INSTANT PERMIT BY THE CITY OF LADYSMITH.

In the event that, in accord with the agreement incorporating this permit by reference, the Permit Holder annexes a portion of the property described at (1), above, to the City of Ladysmith, the said City hereby agrees, pursuant to the power vested in it at Secs. 62.23 (7) and 144.839, Wis. Stats., to adopt and implement the terms and conditions of this permit as its zoning regulation of the Permit Holder's mine.

(34) AMENDMENT OF TERMS AND CONDITIONS IMPOSED UNDER THIS PERMIT.

In the event that, during the period of time covered by this permit, the Permit Holder shall apply for variances from applicable federal or state laws or regulations, other than those identified at Sec. (12) above, which variances act to substantially change or have the potential to substantially change the nature of or scope or extent of the mining operations to take place in the Active Mine Area subject hereto, such as the development of a shaft underground mine or the installation of more or larger equipment so as to increase the yearly ore shipping rate in excess of 125 percent of the level expressed in Sec. 3.c. (10) of the Local Agreement or expanding beyond the limits of Sec. 24.b. of the Local Agreement, or in the event that cause exists, for either the Permit Holder or Rusk County to renegotiate all or a specific provision or provisions of this Local Agreement, in accord with Sec. 24 a., thereof, Rusk County reserves the right, in deference to the interest of the public health, safety and welfare and its authority at Sec. 59.97, Wis. Stats., to modify or impose additional or different conditions upon the Permit Holder's special use activity--mining. The process of considering and establishing or rejecting such additional or different conditions shall be governed by Sec. - 7.1 and 7.2(1), (3), (4) and (5) of the Comprehensive Zoning Code or their successors.

(35) BACK FILLING OF OPEN PIT.

Upon the conclusion of its mining under this permit and under the Operator's NR132 permit, the Operator shall, in accord

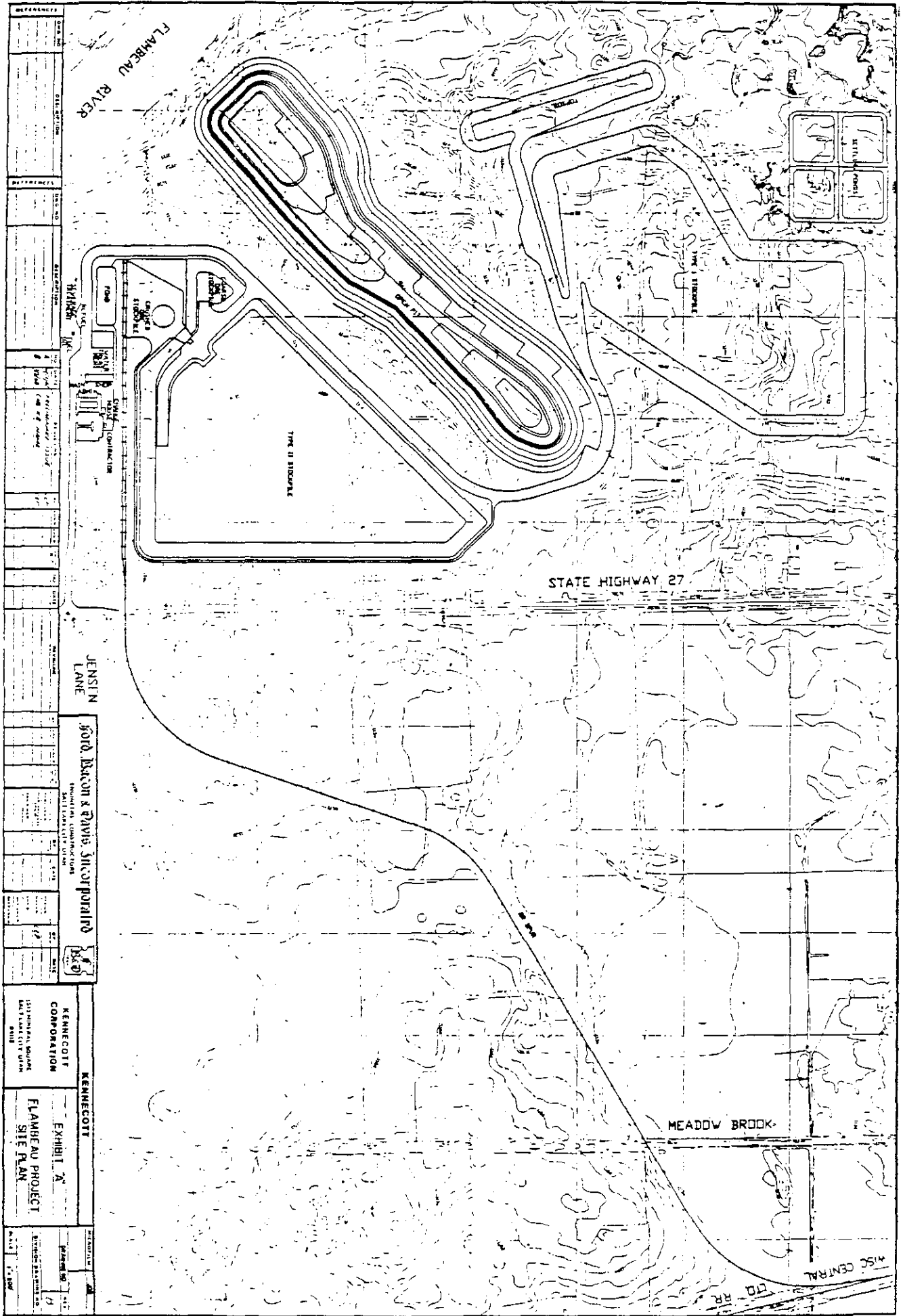
with and subject to applicable provisions of NR132 and NR182, back fill the open pit created in the course of its mining operations. The present plan, subject to DNR approval, is that it shall use the soil, overburden wasterock and precipitate generated from wastewater treatment in the back filling of the mine and shall deposit in the layer furthest below the grade level of the land that wasterock with the highest incidence of sulfide mineralization as well as the precipitate. It shall also, if acceptable to the DNR, and subject to engineering specifications approved of by the DNR, place at an appropriate level below the soil and overburden, a layer composed of a clay-like, possibly saprolitic rock formation, referred to otherwise as "ML material", to help assure that the permeability of the Type II Wasterock filled below the Type I Wasterock will be less than the permeability of the Type I Wasterock and earth fill at the top of the pit.

This Conditional Use Permit is hereby granted to the Permit Holder under authority vested in the Rusk County Board of Supervisors.

Rusk County,  
A QuasiMunicipal Corporation of  
The State of Wisconsin.

BY:

  
\_\_\_\_\_  
Norman Arndt  
Zoning Administrator

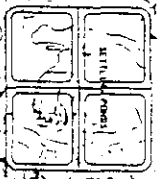


NO.	DESCRIPTION	DATE	BY	REVISIONS
1	PRELIMINARY	10/1/58	J. B. BROWN	
2	REVISED	11/1/58	J. B. BROWN	
3	REVISED	12/1/58	J. B. BROWN	
4	REVISED	1/1/59	J. B. BROWN	
5	REVISED	2/1/59	J. B. BROWN	
6	REVISED	3/1/59	J. B. BROWN	
7	REVISED	4/1/59	J. B. BROWN	
8	REVISED	5/1/59	J. B. BROWN	
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10	REVISED	7/1/59	J. B. BROWN	
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99	REVISED	12/1/66	J. B. BROWN	
100	REVISED	1/1/67	J. B. BROWN	

**JOHN BROWN & DAVID SULLIVAN**  
 ENGINEERS, ARCHITECTS  
 100 N. BROAD ST. CHICAGO, ILL.

**KENNECOTT**  
 KENNECOTT CORPORATION  
 100 MINERAL SQUARE  
 EAST LANSING, MICH. 48022

**EXHIBIT A**  
**FLAMBEAU PROJECT**  
**SITE PLAN**



FLAMBEAU RIVER

STATE HIGHWAY 27

MEADOW BROOK

MISC. CENTRAL  
 CO. RR.