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JUDGE FINDS FLAMBEAU MINING CO. COMMITTED TO “PROTECTION OF THE ENVIRONMENT AND PRESERVATION OF WATER QUALITY”

Judge denies plaintiffs’ request for legal fees and costs, questions motives

LADYSMITH – The Flambeau Mining Company welcomes yesterday’s ruling by Judge Barbara Crabb that vindicated the company and upheld and commended its strong environmental commitment and record. The decision, released July 24, was on a 2011 lawsuit by mining opponents alleging Clean Water Act violations by the company.

“We are pleased that the judge was clear in her ruling that the Flambeau River has been and is protected, and that discharges from the biofilter on our property have never threatened the river’s water quality, as the plaintiffs claimed,” said Dave Cline, a representative of the Flambeau Mining Company. “The ruling eliminates any doubts about our strong commitment to the environment.”

Judge Crabb’s ruling referenced the company’s “exemplary efforts to protect the environment during its mining operations and reclamation effort” and that, “These efforts deserve commendation, not penalties.”

The judge also denied awarding legal fees to the plaintiffs and, in her ruling, questioned the motivation of the plaintiffs to expend “so much time and energy litigating against a company that seems every bit as committed as they (the plaintiffs) are to the protection of the environment and preservation of water quality.” The judge assigned a \$275 civil penalty against the company because it did not have a federal permit for water management, only a state permit. In her ruling on the civil penalty, she commended the company’s extensive efforts “to protect the environment of the Flambeau Mine site, both during the mining operation and afterwards during the reclamation effort” and ruled that, “It would not advance the goals of the Clean Water Act to impose anything but a pro forma penalty on a company that was compliant with the Act and with the directives of the state’s Department of Natural Resources and acted in all respects as a good neighbor.”

Cline added, “The judge made it clear that we were in full compliance with our state permit and that we were following the directive of the DNR in obtaining that permit for stormwater management.”

According to the ruling, the best management practices put in place by the company in early 2012 make any future corrective action or new permits going forward unnecessary. Judge Crabb also added to the record that the company’s goodwill effort to help the City of Ladysmith create a business park on company property should be commended, stating, “It would have been less expensive for defendant to have refused the city’s request to keep the outlot and the buildings, removed them and dug up the outlot. It incurred the extra costs only because it wanted to help out a city that was struggling economically.” The biofilter and stormwater management plan was the focus of the lawsuit and was in place due to the City’s economic development project on Flambeau’s property.

Contrary to public statements made by the plaintiffs, Judge Crabb found that no harm was done to the Flambeau River. She stated, “Plaintiffs cannot make a plausible argument that the quality of the water in the river is affected by the discharges from the biofilter. They can continue to enjoy the river for fishing, recreation and wildlife viewing without any concern for the river’s water quality resulting from biofilter discharges, not only because the biofilter is being replaced but because it never threatened the river’s water quality during the period at issue in this suit.”

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