

**Subject:** NOW THAT THE MORATORIUM ON METALLIC MINES HAS BEEN LIFTED, WHAT IS OCCURRING IN THIS INDUSTRY?

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**WILL A METALLIC MINE OPEN UP SOON IN YOUR AREA? DO YOU KNOW WHAT IS CURRENTLY ON THE HORIZON FOR THIS INDUSTRY? WISCONSIN IS OPEN FOR BUSINESS!**



*.....keeping watch on  
the industry*

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**The Flambeau mine during flooding time along the Flambeau River in Rusk County. This is a sulfide mine that has**

**since been reclaimed after mining heavy metals including copper, nickel, gold and silver from it during the 1990's.**

**Several readers of the Frac Sand Sentinel have been curious about metallic mining status in**

**Wisconsin since the mining moratorium has been lifted by the legislature.**

**I asked Professor Al Gedicks for the information. He gave me permission to print his statements in the Frac Sand Sentinel.**

**Thanks, Al!**

**Here is the response I received:**

The proposed Back Forty metallic sulfide mine next to the Menominee River has obtained three of the four permits it needs. The wetland permit is still under (EPA) consideration after major objections to the permit were raised at the January 23 public hearing. On March 8, 2018 the U.S. Environmental Protection Agency urged Michigan's Department of Environmental Quality (MDEQ) to reject the permit as written because it did not meet the requirements of the Clean Water Act. Aquila Resources is now working with MDEQ to respond to the EPA's extensive objections to the permit. The earliest date for any decision about whether MDEQ will approve the permit is sometime in June.

There is also a lawsuit filed by the Menominee Indian Tribe of Wisconsin against the EPA alleging that the federal EPA and the U.S. Army Corps of Engineers did not have authority to delegate the permitting process affecting an

**interstate and international watershed to the State of Michigan. The federal government has filed a motion to dismiss the suit. Litigation is proceeding.**

**Finally, there is a contested case hearing on the mining permit (separate from the wetland permit) sometime in May. The Menominee Tribe and a private landowner next to the proposed mine are challenging the mining permit.**

**I'm attaching a recent letter to one of the investors in the Back Forty project urging them to seriously consider the widespread opposition to the project and the financial risks of investing in a project that has failed to obtain a social license to operate. The letter has 26 co-signers.**

**Here are the contents of the letter referred to with the co-signers' names:**

**April 10, 2018**

**Wisconsin Resources Protection Council  
Box 263  
Tomahawk, WI 54487**

**Mr. Oskar Lewnowski, CIO  
Orion Mine Finance Group  
1121 Avenue of the Americas, Suite 3000  
New York, NY 10036**

**Dear Mr. Lewnowski:**

**We are once again writing in regard to Orion's 14.3% ownership of Aquila Resources' Back Forty metallic sulfide deposit in Michigan's Upper Peninsula. Aquila's recent press release (March 2, 2018) states that they anticipate a decision on their wetland permit in the first half of 2018. This optimistic assessment has been called into question by the March 8, 2018 letter from the U.S. Environmental Protection Agency to Michigan's Department of Environmental Quality (DEQ) stating that the Back Forty project "does not comply with CWA [Clean Water Act] Section 404(b)(1) Guidelines, and EPA objects to the issuance of a permit for this project as proposed" (Christopher Korleski, Director of EPA Water Division to Michigan DEQ).**

**Aquila's permitting update of March 9 tries to minimize EPA's 7 pages of concerns by stating that these issues "are readily addressable." However, the list of concerns includes some fundamental deficiencies such as failure to**

**provide a complete description of the project, including a final site plan identifying the final location of key project features, including storm water and waste management features...Nor are all impacts of the project identified in the application, including impacts caused by any planned underground mining, a power plant, and mining management systems. Without this information, the reviewing agencies cannot assess the extent of the proposed mine's impact on aquatic resources as required by the CWA.”**

**EPA's comments, along with Michigan DEQ's January 19 letter with 9 pages of single-spaced comments, suggests fundamental problems with the mine plan and the economic feasibility of the project. The most recent (February 6, 2018) “Updated Mineral Resource Estimate and Technical Report on the Back Forty Project” prepared by P&E Consultants, Inc. states that “the economics and technical viability of the Project have not been demonstrated at this time (p. 21).”**

**Besides the questionable economic and technical viability of the project the Michigan DEQ's public hearing on Aquila's wetland permit application demonstrated continuing widespread public opposition to this**

**controversial project.**

**Nearly five hundred members of the public attended the January 23<sup>rd</sup> hearing in Stephenson, Michigan. Over one hundred people provided testimony. All but four speakers spoke in opposition to the project. Over half the speakers represented Native American Nations, including the Menominee, Ho Chunk, Oneida, Stockbridge-Munsee, and Mole Lake Sokaogon Ojibwe.**

**Ms. Kimberly Fish who works in the Water Resources Division of the DEQ told a reporter after the public hearing that the expected time frame for a decision on the permit would extend beyond the original April deadline because of deficiencies in the application (Mark Cowman, “Packed, orderly crowd for Back Forty Mine public hearing, [www.uppermichiganssource.com](http://www.uppermichiganssource.com) 1/24/18).**

**However, the permitting delay may be the least of Aquila’s problems. The day before the hearing the Menominee Indian Tribe of Wisconsin filed a lawsuit in U.S. District Court for the Eastern District of Wisconsin in Green Bay alleging that the federal Environmental Protection Agency and the U.S. Army Corps of Engineers did not have authority to delegate the permitting process**

affecting an interstate and international watershed to the State of Michigan. The lawsuit, if successful, will require the federal agencies to assume primary control over the wetland permitting process for the mine.

Former Menominee Tribal Chairman Gary Besaw said he expects the EPA and Army Corps of Engineers would reject Aquila's wetlands permit application if the tribe prevails and forces the issue back on federal regulators (Jeff Bollier, "Tribe sues feds over Back 40 Mine permits, *Green Bay Press Gazette*, 1/23/18). "As chairman of the Tribal Legislature, I see this as a battle for the future of a healthy environment in the region. It is also a battle about showing proper respect for the Menominee Tribe's traditional cultural landscape that contains ancient garden beds, burial mounds and sacred sites" ( Gary Besaw, *Earthjustice Guest Blogger*, 1/22/18).

Guy Reiter, a Menominee tribal organizer, spoke at the public hearing and asked the DEQ to apply environmental justice appropriate to tribal interests, but declared "For 500 years we've been lied to and I think this is no different. You say you want to hear from us, but your minds are made up! You will not break our spirits. We will stand on the shoulders of our ancestors. We will

always be here. This is our land. We will not give up!” At the conclusion of his remarks, he asked all the people wearing blue “Save the Menominee River” t-shirts to stand. Several hundred people stood in solidarity with Menominee water protectors.

Aquila has ignored Menominee treaty rights and is in violation of the United Nations Declaration on the Rights of Indigenous Peoples that requires all extractive resource projects to obtain the free, prior and informed consent of Indigenous peoples. Furthermore, the International Union for the Conservation of Nature has affirmed that the sacred natural sites of Indigenous peoples, such as the Back Forty mine site, should be “No-Go Areas” for destructive industrial activities like mining and for corporations to permanently withdraw from such areas.

Opposition to the project goes far beyond the five hundred people who attended the public hearing. Seven local counties, two towns, two cities, dozens of tribal governments and intertribal organizations, environmental, sportfishing and faith-based organizations have all passed resolutions opposing the Back Forty project.

The most recent and dramatic show of solidarity to protect the water occurred on February 17 when four “Adventurers with a Cause” from Egg Harbor, Wisconsin walked 15 miles across the Bay on the ice from Egg Harbor to Menominee, Michigan to focus public attention on the threat to Green Bay and Lake Michigan from the Back Forty project.

“It’s my sense,” said Ryan Heise, Village Administrator for Egg Harbor, Wisconsin, and organizer of the walk, “that the residents of Door County share an understanding for the significance of protecting our natural resources. However, I’m not too sure everyone is aware of both the proximity of the Menominee River to Door County and the long-term consequences of environmental degradation that are likely to result from open-pit metallic sulfide mining operations. Egg Harbor is a tourist-based economy, and clean water is essential to our social and economic health. Egg Harbor without a harbor is just an egg. We all need to stay awake and aware.” (*Green Bay Press Gazette*, 2/15/18).

The solidarity to protect the Menominee River demonstrated by the ice walkers is just the latest example of Aquila’s failure to obtain a social

license to operate from the communities most directly affected by this project. This raises an important question for your shareholders: will the Back Forty project join the growing list of mine projects that have been threatened or are under threat because of an inability of companies and local stakeholders to come to an agreement about whether mining is compatible with the values of a community?

Aquila's rosy profit projections are at odds with the consensus view of industry risk analysts who emphasize that "The acquisition and maintenance of a Social License to Operate has always been relevant to mining companies. Without the consent of local stakeholders operating and developing a specific asset is exceedingly challenging. Over the last century the rights of local, and indigenous, populations proximate to mine sites have increased significantly and with these rights has come greater leverage over mining companies...failure to gain a social license can lead to an inability to develop economically valuable assets." (Rory Pike, "The Relevance of Social License to Operate for Mining Companies, Schroders Research Paper, July 2012.  
<http://www.schroders.com/staticfiles/schroders/sites/america/us%20institutional%202011/pdfs/so>

[cial-licence-to-operate.pdf](#)

**We urge you to seriously consider the widespread public opposition to this project and the financial risks of continuing to invest in a project that is unlikely to produce a single ounce of gold or zinc. Do not be fooled by Aquila's false promises of an economically viable mining project.**

**Sincerely,**

**Al Gedicks, Wisconsin Resources Protection Council, Tomahawk, WI**

**Guy Reiter, Menikanehkem (Community Rebuilders), Keshena, WI**

**Ron Henriksen, Front 40 Environmental Fight, Stephenson, MI**

**Jane A. TenEyck, Chippewa Ottawa Resource Authority, Sault Ste. Marie, MI**

**Aaron Payment, United Tribes of Michigan, Harbor Springs, MI**

**Dale and Lea Jane Burie, Coalition to SAVE the Menominee River, Inc., Marinette, WI**

**Kathleen Heideman, Mining Action Group of the  
Upper Peninsula Environmental Coalition,  
Houghton, MI**

**Tom Goldtooth, Indigenous Environmental  
Network, Bemidji, MN**

**Dave Blouin, Sierra Club – John Muir Chapter,  
Madison, WI**

**Frank Koehn, Mining Impact Coalition of  
Wisconsin, Ashland, WI**

**Seth Hoffmeister, Wisconsin League of  
Conservation Voters, Green Bay, WI**

**Dean Hoegger, Clean Water Action Council,  
Green Bay, WI**

**Horst Schmidt, Upper Peninsula Environmental  
Coalition, Houghton, MI**

**Raj Shukla, River Alliance of Wisconsin,  
Madison, WI**

**Karl Fate and Sarah Juon, Oneida County Clean  
Waters Action, Rhinelander**

**Jill Ryan, Freshwater Future, Petoskey, MI**

**Lelah Allen and Shannon Sloan Spice, Water  
Protectors of Milwaukee, WI**

**Lee Stedman and Kesha Patel, Gaia Coalition  
Network, Milwaukee, WI**

**David Barnhill and Susan Bilda, Our Wisconsin  
Revolution, Northwoods Chapter, Neenah, WI**

**Lori Andresen, Save Our Sky Blue Waters,  
Duluth, MN**

**Aaron Mintzes, Earthworks, Washington, DC**

**Paul Cienfuegos, Community Rights US,  
Portland, OR**

**Dick Dragiewicz, Northern Illinois Fly Tyers  
(NIFT), Northbrook, IL**

**Toni Harris, OP, Dominicans of Sinsinawa  
Leadership Council, Sinsinawa, WI**

**Jim Soletski, JOSHUA (Justice Organization  
Sharing Hope United for Action), Green Bay, WI**

**William Van Lopik, ESTHER Fox Valley, Neenah,**

WI

**Al Gedicks, Executive Secretary  
Wisconsin Resources Protection Council**

**My thinking: all counties and towns in Wisconsin should be bringing their comprehensive plans and ordinances up to date in regard to sulfuric mining or metallic mining. One never knows when your town or county will be impacted by the environmental challenges that metallic mining poses.....either from a distance or nearby. The same holds true for non-metallic mining as sulfides may occur in this industry as well.**

**Marathon County has been working on their ordinances. Watch this news report:**

**<http://www.waow.com/story/37843493/2018/03/29/mining-ordinance-moves-forward-in-marathon-county>**

**Or listen and read this report from WPR:**

**[https://www.wpr.org/marathon-county-first-wisconsin-pass-sulfide-mining-ordinance?utm\\_source=WPR+News+&+Program+N](https://www.wpr.org/marathon-county-first-wisconsin-pass-sulfide-mining-ordinance?utm_source=WPR+News+&+Program+N)**

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**When is enough ENOUGH?? How much degradation can our state take and still keep our water and and air safe and healthy for use by all, rich and poor alike?**

**pjp**

**Patricia Popple 715-723-6398 [sunnyday5@charter.net](mailto:sunnyday5@charter.net)**

*Welcome to the Frac Sand Sentinel, a newsletter highlighting resource links, news media accounts, blog posts, correspondence, observations and opinions gathered regarding local actions on, and impacts of, the developing frac sand mining and processing industries.*

*The content of this newsletter is for informational purposes only. The editor of the Frac Sand Sentinel does not accept any responsibility or liability for the use or misuse of the content of this newsletter or reliance by any persons on the newsletters contents.*

***CHECK OUT THE WEBSITE: [WWW.CCC-WIS.COM](http://WWW.CCC-WIS.COM) and for additional information and [www.lookdownpictures.com](http://www.lookdownpictures.com) for panoramic views of frac sand mines, processing plants, and trans-load facilities.***

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