

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Madison WI 53707-7921

Tony Evers, Governor
Karen Hyun, Ph.D., Secretary
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March 26, 2025

Lac du Flambeau Band of Lake Superior Chippewa Indians
c/o Attorney Andrew Adams III
Hogan Adams PLLC
1935 County Road B2 West, Suite 460
St. Paul, MN 55113

Subject: Contested Case Hearing Petition Regarding Decision to Confer Coverage under WPDES General Permit No. WI-S067831-06 Construction Site Storm Water Runoff, dated February 4, 2025, to Green Light Metals Wisconsin, LLC Bend Project Site

Dear Attorney Adams:

The Department of Natural Resources (“Department”) has reviewed the petition you submitted on behalf of the Lac du Flambeau Band of Lake Superior Chippewa Indians for a contested case hearing under Wis. Stat. § 227.42 and Wis. Admin. Code chs. NR 2 and NR 216 (the “Petition”). The Petition, which the Secretary’s Office received via personal service on March 6, 2025, was timely filed. The Petition asserts the Department acted unlawfully by failing to require an industrial facility storm water permit for storm water discharges associated with Green Light Wisconsin, LLC’s (“GLW”) proposed exploration activities within the Bend Deposit site. However, for reasons described below, the request for a contested case hearing is hereby denied.

DECISION

To obtain a hearing under Wis. Stat. § 227.42, a petitioner must demonstrate, among other things, that “[t]here is a dispute of material fact.” Wis. Stat. § 227.42(1)(d). The Petition does not raise a question of material fact regarding whether GLW’s notice of intent and accompanying documentation for coverage under the construction site general permit meets the terms and conditions of the construction site general permit. Instead, the Petition asserts the Department violated its own regulations by not issuing an industrial facility storm water permit, and argues GLW’s proposed activities (i.e., exploratory drilling) qualify as “metallic mining” under Wis. Admin. Code § NR 216.21(2)(b)3.a. and Table 4. An allegation that the Department, as a permitting authority, is not complying with its storm water regulations is a question of law, not fact. The Petition therefore does not meet the requirements of Wis. Stat. § 227.42(1) for a contested case hearing on this issue. For these reasons, the request for a contested case hearing is denied.

Insofar as the Petition seeks to raise any issues not addressed above, it is hereby denied.

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 must be filed. For judicial review of a decision pursuant to Wis. §§ 227.52 and 227.53, you must file your petition with the appropriate circuit court and serve the petition on the department within the prescribed time period. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

If you have any questions about this letter, please contact attorney Craig C. Sparks at (608) 598-0906 or Craig.Sparks@wisconsin.gov.

Sincerely,

Signed by:

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Steven Little
Deputy Secretary
for
Karen Hyun
Secretary

cc: Matthew Jacobson, WDNR Advanced Wastewater Specialist
Craig C. Sparks, WDNR Attorney
Michael Moran, WDNR Attorney
Benjamin Cornelius, WDNR Tribal Liaison
Samantha Hermsen Sanchez, Hogen Adams PPLC
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Eric Quigley, Green Light Wisconsin, LLC