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Court Administrator

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By JH Deputy

Johnson
DISTRICT COURT

STATE OF MINNESOTA

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
CASE TYPE: CIVIL OTHER

MINNESOTA CHAMBER OF COMMERCE,

Plaintiff,

v.

PAUL EGER in his official capacity as COMMISSIONER,
MINNESOTA POLLUTION CONTROL AGENCY,

Defendant.

Court File No. 62CV-10-11284

SUMMONS


**THE STATE OF MINNESOTA TO DEFENDANT PAUL EGER, COMMISSIONER,
MINNESOTA POLLUTION CONTROL AGENCY:**

PLEASE TAKE NOTICE that you are hereby summoned and required to serve upon Plaintiff's attorneys an Answer to the Complaint, which is herewith served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the Complaint.

Rule 114 of the Minnesota General Rules of Practice for the District Court provides that all civil cases are subject to alternative dispute resolution (ADR) processes, except for those actions enumerated in Minn. Stat. § 484.76 and Rules 111.01 and 310.01 of the General Rules. This notice is provided in accordance with Minn. Stat. § 543.22.

Dated: December 17, 2010

ENVIRONMENTAL LAW GROUP, LTD

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ACKNOWLEDGMENT

The Minnesota Chamber of Commerce hereby acknowledges through its undersigned counsel that sanctions may be imposed under Minn. Stat. § 549.211 if, after notice and a reasonable opportunity to respond, the Court determines that a party has violated Minn. Stat. § 549.211, subd. 2.


Thaddeus R. Lightfoot (#24594X)

STATE OF MINNESOTA

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MINNESOTA CHAMBER OF COMMERCE,

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PAUL EGER in his official capacity as COMMISSIONER,
MINNESOTA POLLUTION CONTROL AGENCY,

Defendant.

Court File No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Minnesota Chamber of Commerce ("the Chamber") for its Complaint against Defendant Paul Eger, in his official capacity as Commissioner of the Minnesota Pollution Control Agency ("MPCA" or "Defendant"), states and alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for declaratory judgment and injunctive relief alleging that Defendant's application of Minnesota Rule 7050.0224 violates the rights of members of the Chamber under the Due Process and Equal Protection Clauses of the United States and Minnesota Constitutions, exceeds Defendant's statutory authority under the Minnesota Water Pollution Control Act and the Minnesota Municipal Water Pollution Control statute, Minn. Stat. ch. 115, and is arbitrary and capricious.

2. In 1973, Defendant adopted a rule, now codified at Minn. R. 7050.0224, subp. 2, establishing a numeric water quality standard for sulfates of 10 milligrams per liter in water used for agricultural purposes, including irrigation ("Wild Rice Rule"). The Wild Rice Rule further specifies that the numeric water quality standard for sulfates applies only to water "used for the production of wild rice during periods when the rice may be susceptible to damage by high

sulfate levels.” Defendant’s Wild Rice Rule does not define the terms “water used for production of wild rice,” “when rice may be susceptible to damage,” or “high sulfate levels.”

3. In 1975, Defendant for the first time included a sulfate discharge limitation of up to 60 milligrams per liter in a wastewater discharge permit, based on the numeric water quality standard for sulfates in the Wild Rice Rule. For the next 35 years, Defendant did not invoke or rely upon the Wild Rice Rule to establish sulfate discharge limitations in any wastewater discharge permit.

4. In or about February 2010, Defendant began informing members of the Chamber that the Wild Rice Rule applies not to waters used for agricultural irrigation to produce wild rice when the rice may be “susceptible to damage from high sulfate levels,” but to any water in which wild rice may be found. Defendant has also issued or intends to issue wastewater discharge permits to Chamber members in which Defendant has imposed or will impose sulfate discharge limitations based upon the Wild Rice Rule, even though the waters of the State to which the Chamber members discharge wastewater are not used for agricultural irrigation to produce wild rice. Attempting to comply with Defendant’s sulfate discharge limitations will cost Chamber members hundreds of millions of dollars, and even those enormous expenditures may not achieve compliance with the extremely low discharge limitations that Defendant has imposed or will impose. Upon information and belief, Defendant has not imposed or does not intend to impose sulfate discharge limitations based upon the Wild Rice Rule in wastewater discharge permits issued to municipal wastewater treatment facilities and other discharge sources.

5. In addition, in or about February 2010, Defendant under the purported authority of the Wild Rice Rule began requesting that Chamber members conduct surveys to identify wild rice plants in certain waters of the State to which members of the Chamber are discharging

wastewater under lawfully issued permits. Defendant made its requests even though the waters to be surveyed by Chamber members are not waters used for agricultural irrigation to produce wild rice. Defendant has not requested such surveys from municipal wastewater treatment facilities and other sources that are discharging wastewater under lawfully issued permits.

II. PARTIES AND ASSOCIATIONAL STANDING

6. Plaintiff, the Chamber, is a non-profit Minnesota corporation with its principal place of business at 400 Robert Street North, Suite 1500, St. Paul, Minnesota, 55101-2098. The Chamber represents more than 2,400 businesses of all sizes, sectors, and regions across Minnesota, as well as local chambers and industry associations. The Chamber's mission, in part, is to advocate for its members about issues of importance to the membership and to advocate on the membership's behalf when members are or could be injured by adverse actions, including actions by state agencies.

7. The Chamber has standing to bring suit in a representational capacity on behalf of its members. Defendant has informed many Chamber members, including but not limited to Cliffs Natural Resources Inc., United Taconite LLC, Polymet Corporation, Mesabi Mining LLC, and United States Steel Corporation, that Defendant intends to implement the Wild Rice Rule by limiting the discharge of sulfates to any waters of the State where wild rice is found, whether or not those waters are used for agricultural irrigation to produce wild rice. Attempting to comply with Defendant's sulfate discharge limitations will cost Chamber members hundreds of millions of dollars, and even those enormous expenditures may not achieve compliance with the extremely low discharge limitations that Defendant has imposed or will impose. Defendant has not imposed sulfate discharge limitations based upon the Wild Rice Rule in wastewater

discharge permits issued to municipal wastewater treatment facilities and other discharge sources.

8. Defendant, MPCA, is an agency of the State of Minnesota with its principal administrative offices located at 520 Lafayette Road North, St. Paul, Minnesota, 55155-4194. A nine-member Citizens' Board, appointed by the Governor, oversees MPCA staff.

III. JURISDICTION AND VENUE

9. This Court has jurisdiction over the claims against Defendant that arise under the United States and Minnesota Constitutions and laws of the State of Minnesota, specifically the Minnesota Declaratory Judgments Act, Minn. Stat. ch. 555.

10. Venue lies in this district under the Minnesota Declaratory Judgments Act, Minn. Stat. ch. 555, and Minn. Stat. ch. 542 because both Plaintiff and Defendant are found in this district.

IV. ALLEGATIONS COMMON TO ALL CLAIMS

A. BACKGROUND REGARDING THE 1973 NUMERIC STANDARD FOR SULFATES IN CLASS 4A WATERS USED FOR THE PRODUCTION OF WILD RICE WHEN THE RICE MAY BE SUSCEPTIBLE TO DAMAGE BY HIGH SULFATE LEVELS

11. In exercising its powers, Defendant must give "due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic and other economic factors and other material matters affecting the feasibility and practicability" of any proposed action. Minn. Stat. § 116.07, subd. 6. Defendant must also "take or provide for such action as may be reasonable, feasible, and practical under the circumstances." *Id.*

12. The Minnesota Water Pollution Control Act, Minn. Stat. §§ 115.01-115.09, gives Defendant the authority to administer and enforce all laws relating to the pollution of any of the

waters of the State of Minnesota. Any water quality standard or discharge limitation that Defendant establishes under the Minnesota Water Pollution Control Act must be "reasonable." Minn. Stat. 115.03, subd. 1(c).

13. Defendant is also authorized to implement the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387.

14. The Federal Water Pollution Control Act, the Minnesota Water Pollution Control Act, and the Minnesota Municipal Water Control statute, Minn. Stat. §§ 115.41-115.54, require Defendant to designate the waters of the State into classifications and to adopt standards of water quality for each classification necessary for the public use or benefit contemplated by the classification.

15. In September 1973, primarily as a result of requirements placed upon the State by the 1972 amendments to the Federal Water Pollution Control Act, Defendant adopted a regulation, now codified in relevant part at Minn. R. 7050.0224, imposing a variety of water quality standards on waters in the State of Minnesota. Water quality standards are regulations that consist of (i) a designated use or uses of a water body and (ii) the water quality criteria that are necessary to protect the use or uses.

16. The September 1973 regulation imposed both "narrative" water quality standards and "numeric" water quality standards. A numeric water quality standard represents a concentration of a pollutant that Defendant deems will protect human health and the environment when the water is used for a specific use. A narrative water quality standard is a textual statement that describes a condition Defendant deems unacceptable in or upon a water, such as floating solids or visible oil film.

17. One of the standards in Defendant's September 1973 regulation imposed a numeric water quality standard for sulfates in "Class 4A" waters. Class 4A waters are waters used for agricultural purposes, including irrigation. Minn. R. 7050.0224, subp. 2.

18. Defendant's numeric standard, now codified at Minn. R. 7050.0224, subp. 2 (the "Wild Rice Rule"), limits sulfates to 10 milligrams per liter (or parts per million) and applies "to water used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels."

19. The Wild Rice Rule does not define the term "water used for production of wild rice." Similarly, the Wild Rice Rule does not define the term "when rice may be susceptible to damage" or the term "high sulfate levels." The Wild Rice Rule also does not list or otherwise identify the waters to which the 10 milligrams per liter sulfate standard for wild rice applies.

20. When it initially proposed the 10 milligrams per liter sulfate standard in the Wild Rice Rule in early 1973, Defendant proposed that the standard apply year-round to all waters of the State.

21. As ultimately promulgated in September 1973, Defendant's Wild Rice Rule applies only to Class 4A waters used for agricultural irrigation to produce wild rice, and only during periods when the wild rice may be susceptible to damage by high sulfate levels.

B. THE CLAY BOSWELL PERMIT

22. Until June 2010, Defendant's only application of the Wild Rice Rule came in a 1975 permit issued to the Minnesota Power and Light (now known as Minnesota Power) Clay Boswell Steam Electric Station facility in Cohasset, Itasca County, Minnesota.

23. Minnesota Power is a member of the Chamber.

24. Defendant issued Minnesota Power's Clay Boswell Steam Electric Station facility a permit to discharge wastewater to the Mississippi River under the Federal Water Pollution Control Act's National Pollutant Discharge Elimination System ("NPDES") program. Minnesota Power's Clay Boswell Steam Electric Station facility does not discharge wastewater to waters of the State that are used for agricultural irrigation to produce wild rice.

25. In the NPDES discharge permit for the Clay Boswell facility, Defendant did not impose as a discharge limitation the numeric water quality standard for sulfate of 10 milligrams per liter in waters used for the production of wild rice. Rather, Defendant concluded that the Clay Boswell facility's discharge could contain concentrations of up to 40 milligrams per liter "during the critical months for wild rice (late April to mid-June)" and up to 60 milligrams per liter during all other months.

26. The primary source of sulfates at the Clay Boswell facility was the scrubber system used to abate air pollution. Defendant determined that if Minnesota Power installed additional scrubbers at the Clay Boswell facility, Defendant would increase the sulfate discharge limitation to up to 75 milligrams per liter for months other than the "critical" months for wild rice (late April to mid-June). Defendant also directed Minnesota Power to conduct a study on the impact of sulfate concentrations on wild rice production.

27. In 1978, the University of Manitoba completed a study for Minnesota Power on the effects on wild rice of the sulfates discharged from the Clay Boswell facility to the Mississippi River. The study concluded the sulfates discharged from the facility to the river did not adversely affect wild rice and that sulfate concentrations as high as 120 milligrams per liter had no obvious detrimental effects on wild rice.

28. In 1981, Minnesota Power substituted sulfuric acid for hydrochloric acid in certain pH control devices at the Clay Boswell facility. The change increased sulfate discharges from the facility. Nevertheless, Defendant reissued the Clay Boswell facility's NPDES permit in 1985 with the same sulfate discharge limits as those in the 1975 NPDES permit.

29. A 1990 study on the effects on wild rice of the sulfates discharged from the Clay Boswell facility to the Mississippi River between 1986 and 1989 demonstrated that the discharge had no negative impact on wild rice productivity. In fact, the study found the productivity of wild rice in the Mississippi River was statistically higher in the middle river zone, downstream of the facility's discharge.

30. Before June 2010, the Clay Boswell permit represented the only occasion on which Defendant relied upon the Wild Rice Rule to establish a sulfate discharge limitation.

C. DEFENDANT'S 1997 NARRATIVE WATER QUALITY STANDARD FOR WILD RICE IN THE LAKE SUPERIOR BASIN

31. In 1997, Defendant promulgated a narrative water quality standard for use of the wild rice plant as a food source by humans and wildlife. The rule, now codified at Minn. R. 7050.0224, subp. 1, is distinct from the Wild Rice Rule.

32. The 1997 narrative water quality standard applies only to 24 specifically listed waters in the Lake Superior Basin that are identified as "selected wild rice waters." Minn. R. 7050.0470, subp. 1. According to the narrative standard, the quality of the specifically listed wild rice waters and the aquatic habitat necessary to support the propagation and maintenance of wild rice plant species "must not be materially impaired or degraded." Minn. R. 7050.0224, subp. 1.

33. Defendant acknowledged that it did not employ water chemistry data in listing the waters to which the 1997 narrative standard for wild rice applies. Rather, Defendant relied upon

the input of natural resource managers and wild rice harvesters in the Lake Superior Basin, assessment of biological indices, and a review of historical records to identify waters in the basin that as of 1997 contained current or historic stands of wild rice.

D. DEFENDANT NOW INTENDS TO APPLY THE WILD RICE RULE TO LIMIT THE DISCHARGE OF SULFATES TO ANY WATERS OF THE STATE WHERE WILD RICE IS FOUND

34. Defendant did not invoke the Wild Rice Rule for 35 years after issuing the Clay Boswell NPDES permit.

35. In or about February 2010, Defendant informed Chamber members Cliffs Natural Resources Inc., United Taconite LLC, PolyMet Mining, Inc., Mesabi Mining LLC, and United States Steel Corporation that Defendant now intends to implement the Wild Rice Rule by limiting the discharge of sulfates to any waters of the State where wild rice is found, whether or not those waters are used for agricultural irrigation for the production of wild rice.

(i). Defendant Requests That United Taconite LLC Conduct a Survey to Identify Wild Rice Plants in Waters of the State That Are Not Used for Agricultural Irrigation to Produce Wild Rice

36. United Taconite LLC, a member of the Chamber, holds wastewater discharge permits issued by Defendant for its Thunderbird Mine near Eveleth, St. Louis County, Minnesota, and its Fairlane Plant and Tailings Basin Area at Forbes, St. Louis County, Minnesota. These permits are NPDES Permit No. MN0044946 for the Thunderbird Mine and NPDES Permit No. MN0052116 for the Fairlane Plant and Tailings Basin Area.

37. United Taconite's Thunderbird Mine and Fairlane Plant and Tailings Basin Area do not discharge wastewater to waters of the State that are used for agricultural irrigation to produce wild rice.

38. Defendant is in the process of reissuing NPDES Permit No. MN0044946 for the Thunderbird Mine and NPDES Permit No. MN0052116 for the Fairlane Plant and Tailings Basin Area.

39. On or about May 27, 2010, Defendant wrote to instruct United Taconite to conduct surveys for “the presence of wild rice” in waters of the State to which the Thunderbird Mine and the Fairlane Plant and Tailings Basin Area discharge wastewater under NPDES Permit No. MN0044946 and NPDES Permit No. MN0052116. According to Defendant, the purpose of the surveys is to determine “what waters of the state are ‘used for the production of wild rice’ and [are therefore] subject to the 10 mg/L sulfate standard under Minn. R. 7050.0224, Subp. 2 [the Wild Rice Rule].” A copy of Defendant’s letter is attached to this Complaint as Exhibit A.

(ii). Defendant Requests That Mesabi Mining, LLC Conduct a Survey to Identify Wild Rice Plants and to Determine Current Ambient Sulfate Levels in Waters of the State That Are Not Used for Agricultural Irrigation to Produce Wild Rice

40. Mesabi Mining, LLC, a member of the Chamber, is planning an iron ore mining project on a section of the former LTV mine near Hoyt Lakes, Minnesota. The property was mined for more than 50 years before LTV filed for bankruptcy and left the mine in its current condition. Mesabi Mining acquired a portion of the former LTV mine property from a subsequent owner in 2005, but has not yet conducted mining operations on the property and is currently preparing an environmental impact statement for the proposed iron ore mining project. Before beginning the project, Mesabi Mining must complete its environmental impact statement and obtain from Defendant a wastewater discharge permit under the NPDES program.

41. Mesabi Mining’s project will not discharge wastewater to waters of the State that are used for agricultural irrigation to produce wild rice.

42. Water in existing mine pits in the Mesabi Mining project area and in Second Creek, which runs through the Mesabi Mining project area, contains sulfate concentrations in excess of 10 milligrams per liter.

43. On or about May 28, 2009, Defendant wrote to instruct Mesabi Mining to conduct field surveys “to observe whether wild rice is actually present in all waters in the project area that were determined to have the potential for wild rice” based on either a “literature search” or on “characteristics which may encourage wild rice production.” Defendant also required Mesabi Mining to determine, by relying upon “known historical data” or by taking samples, the “current sulfate levels . . . for those waters where wild rice was observed during the field survey.” A copy of Defendant’s email is attached to this Complaint as Exhibit B.

44. On or about February 25, 2010, Defendant declared in an email that it had “reviewed and considered the currently available information” on the proposed Mesabi Mining project, “including site specific wild rice data and water quality data.” According to Defendant, based upon “the information and data received to date,” Defendant “has determined that it cannot at this time support a sulfate value other than 10 mg/L as the applicable ambient standard for waters used for the production of wild rice that may be impacted” by the proposed Mesabi Mining project. A copy of Defendant’s email is attached to this Complaint as Exhibit C.

45. On or about February 25, 2010, Ann Foss, Defendant’s Strategic Projects Director, informed Mesabi Mining by telephone that Defendant intended to begin enforcing a 10 milligrams per liter water quality standard for mining projects. Foss also informed Mesabi Nugget that Defendant had determined the Partridge River at County Highway 110, which is in the area of the proposed Mesabi Mining project, was used for production of wild rice and would

be subject to the 10 milligrams per liter water quality standard. The Partridge River at County Highway 110 is not used for agricultural irrigation to produce wild rice.

46. Defendant has also suggested to Mesabi Mining that wild rice is “susceptible to damage by high sulfate levels” from April through August. In the NDPES permit for Minnesota Power’s Clay Boswell facility, Defendant stated that “the critical months for wild rice” were “late April to mid-June.”

47. As a result of Defendant’s interpretation of the Wild Rice Rule, Mesabi Mining has been required to spend tens of thousands of dollars on wild rice surveys, research into wild rice production, sulfate monitoring, evaluation of treatment technologies, and evaluation of alternative discharge locations. Defendant’s interpretation of the Wild Rice Rule will also require Mesabi Mining to expend millions of dollars to construct a pipeline to the St. Louis River to avoid wild rice present in the Partridge River. In addition, Defendant’s interpretation of the Wild Rice Rule may require Mesabi Mining to spend tens of millions of dollars on one or more projects in an attempt to reduce sulfate loading in the waters receiving Mesabi Mining’s planned wastewater discharge.

(iii). Defendant Requests That PolyMet Mining, Inc. Conduct a Survey to Identify Wild Rice Plants and to Determine Current Ambient Sulfate Levels in Waters of the State That Are Not Used for Agricultural Irrigation to Produce Wild Rice

48. PolyMet Mining Inc., a member of the Chamber, is proposing to construct and operate an open-pit mine and processing facility in St. Louis County, Minnesota. The mine site will be located at a previously unmined area in the Superior National Forest approximately six miles south of Babbitt, Minnesota. The plant site will be located approximately six miles north of Hoyt Lakes, Minnesota, at a currently inactive taconite processing facility. PolyMet has not yet conducted any mining or processing operations and is currently preparing an environmental

impact statement for its proposed project. Before beginning the project, PolyMet must complete its environmental impact statement and obtain from Defendant a wastewater discharge permit under the NPDES program.

49. PolyMet's project will not discharge wastewater to waters of the State that are used for agricultural irrigation to produce wild rice.

50. On or about May 28, 2009, Defendant wrote to instruct PolyMet to conduct field surveys "to observe whether wild rice is actually present in all waters in the project area that were determined to have the potential for wild rice" based on either a "literature search" or on "characteristics which may encourage wild rice production." Defendant also required PolyMet to determine, by relying upon "known historical data" or by taking samples, the "current sulfate levels . . . for those waters where wild rice was observed during the field survey." According to Defendant, the information was necessary to evaluate how the proposed PolyMet project "may affect waters that contain, or have the potential to contain wild rice." A copy of Defendant's email is attached to this Complaint as Exhibit D.

51. On or about November 13, 2009, Defendant stated in a letter to PolyMet that "waters containing wild rice have been identified in the area surrounding your proposed project." According to Defendant, "to determine which of those waters is 'used for the production of wild rice' and the appropriate sulfate standard to be applied," Defendant "must rely on all reasonably available information." Defendant further recommended that PolyMet contact the Minnesota Department of Natural Resources Fisheries Division to obtain information. Defendant did not define or explain the term "used for production of wild rice." A copy of Defendant's letter is attached to this Complaint as Exhibit E.

52. On or about February 25, 2010, Defendant declared in an email that it had “reviewed and considered the currently available information” on the proposed PolyMet project, “including site specific wild rice data and water quality data.” According to Defendant, based upon “the information and data received to date,” Defendant “has determined that it cannot at this time support a sulfate value other than 10 mg/L as the applicable ambient standard for waters used for the production of wild rice that may be impacted” by the proposed PolyMet project. A copy of Defendant’s email is attached to this Complaint as Exhibit C.

53. On or about February 25, 2010, Ann Foss, Defendant’s Strategic Projects Director, informed Polymet by telephone that Defendant intended to begin enforcing a 10 milligrams per liter water quality standard for mining projects. Foss also informed PolyMet that Defendant had determined the Embarrass River, Lower Embarrass Lake on the Embarrass River chain, and the Upper Partridge River—all of which are in the area of the proposed Polymet project—were used for production of wild rice and would be subject to the 10 milligrams per liter water quality standard. The Embarrass River, Lower Embarrass Lake on the Embarrass River chain, and the Upper Partridge River are not used for agricultural irrigation to produce wild rice.

54. Defendant has also suggested to PolyMet that wild rice is “susceptible to damage by high sulfate levels” from April through August. In the NDPES permit for Minnesota Power’s Clay Boswell facility, Defendant stated that “the critical months for wild rice” were “late April to mid-June.”

55. As a result of Defendant’s interpretation of the Wild Rice Rule, PolyMet has been required to spend tens of thousands of dollars on wild rice surveys, research into wild rice production, sulfate monitoring, evaluation of treatment technologies, and evaluation of

alternative discharge locations. Defendant's interpretation of the Wild Rice Rule will also require PolyMet to expend millions of dollars on one or more projects in an attempt to reduce sulfate loading in the waters receiving Polymet's planned wastewater discharge.

(iv). Defendant Imposes Upon United States Steel Corporation a Sulfate Discharge Limitation in an NPDES Discharge Permit Even Though United States Steel Does Not Discharge to Waters of the State Used for Agricultural Irrigation to Produce Wild Rice

56. United States Steel Corporation, a member of the Chamber, holds two wastewater discharge permits issued by Defendant for its Keewatin Taconite Mining Operations ("Keetac") in Keewatin, Minnesota. These permits are NPDES Permit No. MN0031879 for the Keetac Mining Area and NPDES Permit No. MN0055948 for the Keetac Tailings Basin.

57. On or about June 17, 2010, Defendant issued a modification of the first of these discharge permits, NPDES Permit No. MN0031879. Defendant modified the permit to impose a sulfate discharge limitation of 14 milligrams per liter as a calendar monthly average and 24 milligrams per liter as a calendar monthly maximum. A copy of NPDES Permit No. MN0031879 is attached to this Complaint as Exhibit F.

58. Defendant stated that it imposed the sulfate discharge limitations in modified NPDES Permit No. MN0031879 to satisfy the numeric water quality standard for sulfate in the Wild Rice Rule.

59. Defendant imposed sulfate discharge limitations under the Wild Rice Rule in modified NPDES Permit No. MN0031879 even though the Keetac Mining Area does not discharge wastewater to waters of the State used for agricultural irrigation to produce wild rice. Defendant also did not specify that the sulfate discharge limitations in modified NPDES Permit No. MN0031879 apply only when wild rice is "susceptible to damage."

60. Defendant has stated that it will impose a similar sulfate discharge limitation in NPDES Permit No. MN0055948 for the Keetac Tailings Basin, which Defendant plans to reissue in 2011. The Keetac Tailings Basin does not discharge wastewater to waters of the State used for agricultural irrigation to produce wild rice.

61. NPDES Permit No. MN0031879 for the Keetac Mining Area requires United States Steel to comply with the sulfate discharge limitation of 14 milligrams per liter as a calendar monthly average and 24 milligrams per liter as a calendar monthly maximum “as soon as possible, and in no case shall compliance be attained later than 98 months from the effective date of this permit unless the permit is modified pursuant to 40 CFR 122.62.” The permit also imposes a series of actions that United States Steel must complete during the 98-month “Compliance Schedule for Sulfate,” including but not limited to preparation of a water management study, a sulfate reduction strategy study, a sulfate reduction plan, and an effluent limit study. United States Steel estimates that completing these actions will cost approximately \$425,000.

62. United States Steel estimates that compliance with the sulfate discharge limitation of 14 milligrams per liter as a calendar monthly average and 24 milligrams per liter as a calendar monthly maximum set in NPDES Permit No. MN0031879 for the Keetac Mining Area and NPDES Permit No. MN0055948 for the Keetac Tailings Basin will cost approximately \$226 million for the 10-year operating period when the sulfate limits applicable in the final period become effective.

(v). **Defendant Alleges That United States Steel Corporation's Discharges May Have Exceeded the Water Quality Standard in the Wild Rice Rule Even Though United States Steel Does Not Discharge to Waters of the State Used for Agricultural Irrigation to Produce Wild Rice**

63. United States Steel also holds a wastewater discharge permit issued by Defendant to United States Steel's Minntac Mining Area facility in Mountain Iron, Minnesota. The permit is NPDES Permit No. MN0052493.

64. The Minntac Mining Area facility does not discharge wastewater to waters of the State used for agricultural irrigation to produce wild rice.

65. In or about August 2010, Defendant conducted a compliance evaluation inspection of the Minntac Mining Area facility. On or about September 13, 2010, Defendant sent the Minntac Mining Area facility a copy of the compliance evaluation. Defendant's compliance evaluation stated that "[e]xceedances of the total sulfate standard (when wild rice is present) may or may not have occurred" as a result of discharges from the Minntac Mining Area facility. Defendant's compliance evaluation relied upon the Wild Rice Rule. A copy of Defendant's compliance evaluation is attached to this *Complaint* as Exhibit G.

CAUSES OF ACTION

**COUNT I
EQUAL PROTECTION CLAUSE VIOLATION
DISPARATE TREATMENT**

66. The Chamber restates and incorporates by reference the allegations in paragraphs 1 through 65 above.

67. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., Amend. 14, § 1. The Equal Protection Clause of the Minnesota Constitution provides that "[n]o member of this state shall be disfranchised or

deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers.” Minn. Const., Art. I, § 2.

68. Defendant adopted the Wild Rice Rule under the procedures of the Minnesota Administrative Procedure Act, Minn. Stat. ch. 14. The Wild Rice Rule is a legislative rule of broad application to all persons similarly situated for purposes of the rule.

69. Members of the Chamber holding wastewater discharge permits validly issued by Defendant under the NPDES program are similarly situated to other persons holding wastewater discharge permits issued by Defendant under the NPDES program, including but not limited to municipal wastewater treatment facilities holding NPDES wastewater discharge permits.

70. Defendant has issued or intends to issue wastewater discharge permits to Chamber members in which Defendant has imposed or will impose sulfate discharge limitations based upon the Wild Rice Rule, even though the waters of the State to which the Chamber members discharge wastewater are not used for agricultural irrigation to produce wild rice. Attempting to comply with Defendant’s sulfate discharge limitations will cost Chamber members hundreds of millions of dollars, and even those enormous expenditures may not achieve compliance with the extremely low discharge limitations that Defendant has imposed or will impose.

71. Defendant has not imposed sulfate discharge limitations based upon the Wild Rice Rule in wastewater discharge permits issued to other persons under the NPDES program, including but not limited to municipal wastewater treatment facilities and other discharge sources that are discharging wastewater under lawfully issued permits. For example, Defendant has issued wastewater discharge permits under the NPDES program for municipal wastewater treatment facilities in: (a) the City of Ely, St. Louis County, Minnesota; (b) the City of Orr,

St. Louis County, Minnesota; (c) the City of Chisholm, St. Louis County, Minnesota; (d) the City of Albany, Stearns County, Minnesota; (e) the City of Eagle Bend, Todd County, Minnesota; (f) the City of Hinckley, Pine County, Minnesota; and (g) the City of St. Michael, Wright County, Minnesota. Each of these permits does not include a sulfate discharge limitation based upon the Wild Rice Rule.

72. Upon information and belief, Defendant does not intend to impose sulfate discharge limitations based upon the Wild Rice Rule in wastewater discharge permits issued to other persons under the NPDES program, including but not limited to municipal wastewater treatment facilities and other discharge sources that are discharging wastewater under lawfully issued permits.

73. Defendant, under the purported authority of the Wild Rice Rule, has begun to request that Chamber members conduct surveys to identify wild rice plants in certain waters of the State to which members of the Chamber are discharging wastewater under lawfully issued permits. Defendant made its requests even though the waters to be surveyed by Chamber members are not waters used for agricultural irrigation to produce wild rice.

74. Defendant has not requested such surveys from other similarly situated persons, including but not limited to municipal wastewater treatment facilities and other sources that are discharging wastewater under lawfully issued permits. For example, Defendant has issued wastewater discharge permits under the NPDES program for municipal wastewater treatment facilities in: (a) the City of Ely, St. Louis County, Minnesota; (b) the City of Orr, St. Louis County, Minnesota; (c) the City of Chisholm, St. Louis County, Minnesota; (d) the City of Albany, Stearns County, Minnesota; (e) the City of Eagle Bend, Todd County, Minnesota; (f) the City of Hinckley, Pine County, Minnesota; and (g) the City of St. Michael, Wright County,

Minnesota. Defendant has not requested that these cities conduct surveys to identify wild rice plants in certain waters of the State to which those cities are discharging wastewater under the permits that Defendant issued.

75. Upon information and belief, Defendant does not intend to request that persons similarly situated to Chamber members, including but not limited to municipal wastewater treatment facilities and other wastewater discharge sources, conduct surveys to identify wild rice plants in certain waters of the State to which such similarly situated persons are discharging wastewater under lawfully issued permits.

76. Defendant has intentionally and purposefully discriminated against the Chamber and its members by treating the Chamber and its members differently than other persons similarly situated, without any rational basis for that disparate treatment.

77. Defendant has thereby violated the equal protection rights afforded and guaranteed to the Chamber and its members under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and under the Equal Protection Clause of the Minnesota Constitution.

COUNT II SUBSTANTIVE DUE PROCESS VIOLATION

78. The Chamber restates and incorporates by reference the allegations in paragraphs 1 through 65 above.

79. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that “[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law.” U.S. Const., Amend. 14, § 1. The Minnesota Constitution provides that “[n]o person shall be . . . deprived of life, liberty or property without due process of law.” Minn. Const., Art. I, § 7.

80. The United States Constitution and the Minnesota Constitution prohibit laws that fail to give adequate notice of the conduct proscribed or that place excessive discretion in executive officials to interpret and enforce vague or conflicting terms.

81. The Wild Rice Rule is void for vagueness on its face and as applied under the Due Process Clauses of the United States Constitution and the Minnesota Constitution.

82. The Wild Rice Rule contains no definition of “when the rice may be susceptible to damage.”

83. As a result, the Chamber and its members have not received fair notice of what the Wild Rice Rule means by “when the rice may be susceptible to damage” and, therefore, what conduct is prohibited.

84. The Wild Rice Rule contains no definition of “high sulfate levels.”

85. As a result, the Chamber and its members have not received fair notice of what the Wild Rice Rule means by “high sulfate levels” and, therefore, what conduct is prohibited.

86. The Chamber’s members face significant criminal, civil, and administrative penalties for violations of the Wild Rice Rule and Defendant’s sulfate discharge limitations imposed on the basis of the Wild Rice Rule.

87. Because the Chamber’s members face significant criminal, civil, and administrative penalties for violations of the Wild Rice Rule and Defendant’s sulfate discharge limitations imposed on the basis of the Wild Rice Rule, and because the Wild Rice Rule is unclear as to what type of discharges are punishable, the Wild Rice Rule is void for vagueness.

88. Defendant has thereby violated the substantive due process rights afforded and guaranteed to the Chamber and its members under the Due Process Clause of the Fourteenth

Amendment to the United States Constitution and under the Due Process Clause of the Minnesota Constitution.

**COUNT III
EXCEEDANCE OF STATUTORY AUTHORITY**

89. The Chamber restates and incorporates by reference the allegations in paragraphs 1 through 65 above.

90. Under the Minnesota Water Pollution Control Act, Minn. Stat. ch. 115, Defendant's water quality standards and the application thereof must be reasonable. Minn. Stat. § 115.03, subd. 1(c).

91. Under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, and the Minnesota Municipal Water Control statute, Minn. Stat. §§ 115.41-115.54, Defendant must designate the waters of the State into classifications and adopt standards of water quality for each classification necessary for the public use or benefit contemplated by the classification.

92. Defendant's application of the Wild Rice Rule exceeds Defendant's statutory authority and is arbitrary and capricious because Defendant is attempting to apply the Wild Rice Rule to all waters of the State, rather than to waters used for agricultural irrigation to produce wild rice when wild rice may be susceptible to damage from high sulfate levels.

93. Defendant's application of the Wild Rice Rule is also unreasonable and exceeds Defendant's statutory authority because Defendant has created a narrative wild rice sub-classification for Class 4A waters without specifically listing or otherwise identifying the waters that fall within that sub-classification.

94. Defendant's requirement that Chamber members perform wild rice surveys to determine which waters fall within the narrative sub-classification in the Wild Rice Rule is unreasonable and arbitrary and capricious under the Minnesota Water Pollution Control Act, the

Federal Water Pollution Control Act, and the Minnesota Municipal Water Pollution Control statute.

COUNT IV
MINNESOTA DECLATORY JUDGMENTS ACT

95. The Chamber restates and incorporates by reference the allegations in paragraphs 1 through 65 above.

96. Under the Minnesota Declaratory Judgments Act, Minn. Stat. ch. 555, any person is entitled to obtain a declaration of rights, status, or other legal relations affected by the Minnesota Constitution or by any statute or rule if a declaratory judgment or decree would terminate the uncertainty or controversy giving rise to a cause of action.

97. The Chamber, its members, and Defendant are “persons” as defined by the Minnesota Declaratory Judgments Act, Minn. Stat. § 555.13.

98. Defendant’s Wild Rice Rule imposes a numeric water quality standard of 10 milligrams per liter (or parts per million) for sulfates in “Class 4A” waters—that is, waters used for agricultural purposes, including irrigation—when such waters are “used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels.” Minn. R. 7050.0224, subp. 2.

99. Defendant is now attempting to impose sulfate discharge limitations upon members of the Chamber whether or not members of the Chamber are discharging wastewater to waters used for agricultural irrigation to produce wild rice and whether or not the discharges are occurring during periods when the rice may be susceptible to damage by high sulfate levels. Defendant is also requiring members of the Chamber to conduct surveys for the presence of wild rice plants in waters receiving wastewater discharges from Chamber members, even though such waters are not used for agricultural irrigation to produce wild rice.

100. A current, ripe, and justiciable dispute and controversy regarding the application of the Wild Rice Rule exists between and among the parties and is fully susceptible to judicial resolution.

101. To eliminate the uncertainty regarding the Chamber's legal rights, the Chamber requires a declaration by this Court that the Wild Rice Rule applies only to those waters of the State used for agricultural irrigation to produce wild rice, and only during those times when wild rice is susceptible to damage from high sulfate levels.

102. To eliminate the uncertainty regarding the Chamber's legal rights and the legal rights of its members, the Chamber requires a declaration by this Court that Defendant may not impose sulfate discharge limitations in wastewater discharge permits unless the discharges are to those waters of the State used for agricultural irrigation to produce wild rice, and the discharges are occurring during those times when wild rice is susceptible to damage from high sulfate levels.

103. To eliminate the uncertainty regarding the Chamber's legal rights and the legal rights of its members, the Chamber requires a declaration by this Court that Defendant may not require Chamber members to conduct surveys to determine whether wild rice is present in a water of the State to which Chamber members discharge wastewater unless members of the Chamber are discharging wastewater to a water of the State used for agricultural irrigation to produce wild rice, and the discharges are occurring during those times when wild rice is susceptible to damage from high sulfate levels.

104. Under the Minnesota Declaratory Judgments Act, Minn. Stat. ch. 555, the Chamber is entitled to a declaratory judgment that Defendant may not rely upon the Wild Rice Rule to impose sulfate discharge limitations in wastewater discharge permits unless the

discharges are to those waters of the State used for agricultural irrigation to produce wild rice, and the discharges are occurring during those times when wild rice is susceptible to damage from high sulfate levels.

105. Under the Minnesota Declaratory Judgments Act, Minn. Stat. ch. 555, the Chamber is entitled to a declaratory judgment that Defendant may not rely upon the Wild Rice Rule to require Chamber members to conduct surveys to determine whether wild rice is present in a water of the State to which Chamber members discharge wastewater unless members of the Chamber are discharging wastewater to a water of the State used for agricultural irrigation to produce wild rice, and the discharges are occurring only during those times when wild rice is susceptible to damage from high sulfate levels.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Minnesota Chamber of Commerce prays for relief as follows:

A. A judgment declaring Defendant's application of the Wild Rice Rule has violated Plaintiff's rights under the Equal Protection Clauses of the United States and Minnesota Constitutions;

B. A judgment declaring Defendant must impose sulfate discharge limitations based upon the Wild Rice Rule in wastewater discharge permits in a consistent manner and without disparate treatment to all persons holding wastewater discharge permits issued by Defendant under the NPDES program, including but not limited to municipal wastewater treatment facilities holding NPDES wastewater discharge permits;

C. A judgment declaring Defendant's application of the Wild Rice Rule has violated Plaintiff's rights under the Due Process Clauses of the United States and Minnesota Constitutions;

D. A judgment remanding the Wild Rice Rule to Defendant for rulemaking proceedings to include specific definitions for the terms “when the rice may be susceptible to damage” and “high sulfate levels”;

E. A judgment declaring Defendant’s application of the Wild Rice Rule has violated the Minnesota Water Pollution Control Act, the Federal Water Pollution Control Act, the Minnesota Municipal Water Pollution Control statute, and is arbitrary and capricious;

F. A judgment declaring that the Wild Rice Rule applies not to all waters of the State, but only to waters used for agricultural irrigation to produce wild rice when wild rice may be susceptible to damage from high sulfate levels;

G. A judgment remanding the Wild Rice Rule to Defendant for rulemaking proceedings to specifically list all waters of the State that are Class 4A and that “are used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels”;

H. A judgment preliminarily and permanently enjoining and restraining Defendant from imposing any sulfate discharge limitations in wastewater discharge permits unless the discharges are to those waters of the State used for agricultural irrigation to produce wild rice, and the discharges are occurring during those times when wild rice is susceptible to damage from high sulfate levels;

I. A judgment preliminarily and permanently enjoining and restraining Defendant from requiring Plaintiff or its members to conduct surveys to determine whether wild rice is present in a water of the State to which Chamber members discharge wastewater unless Plaintiff or its members are discharging wastewater to a water of the State used for agricultural irrigation

to produce wild rice, and the discharges are occurring only during those times when wild rice is susceptible to damage from high sulfate levels;

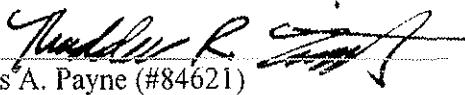
J. A judgment awarding Plaintiff its costs, including disbursements and attorneys' fees, as available under law; and

K. Such other relief to Plaintiff as the Court may deem just, equitable, and proper.

Dated: December 17, 2010

THE ENVIRONMENTAL LAW GROUP, LTD.

By:


James A. Payne (#84621)

Thaddeus R. Lightfoot (#24594X)

133 First Avenue North

Minneapolis, MN 55401

Telephone: (612) 623-2363

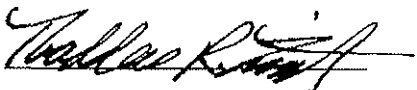
Facsimile: (612) 378-3737

Attorneys for

THE MINNESOTA CHAMBER OF COMMERCE

ACKNOWLEDGMENT

The Minnesota Chamber of Commerce hereby acknowledges through its undersigned counsel that sanctions may be imposed under Minn. Stat. § 549.211 if, after notice and a reasonable opportunity to respond, the Court determines that a party has violated Minn. Stat. § 549.211, subd. 2.



Thaddeus R. Lightfoot (#24594X)



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us

May 27, 2010

Ms. Candice Maxwell
Environmental Engineer
United Taconite LLC
PO Box 180
Eveleth, Minnesota 55734

RE: NPDES/SDS Permit No. MN0044946
NPDES/SDS Permit No. MN0052116
Request for Information on Wild Rice

Dear Ms. Maxwell:

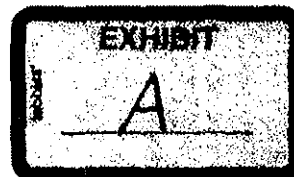
The Minnesota Pollution Control Agency (MPCA) is in the process of reissuing permits for the United Taconite Thunderbird Mine (MN0044946) and the United Taconite Fairlane Plant and Tailings Basin Area (MN0052116). One of the goals of the MPCA is to protect surface waters used for the production of wild rice. Over the last several months, MPCA staff has been working to develop guidance to help determine, on a case-by-case basis, what waters of the state are "used for the production of wild rice" and subject to the 10 mg/L sulfate standard under Minn. R. 7050.0224, Subp. 2. The discharges from the Thunderbird mine pit dewatering and seepage from the Fairlane plant tailings basin area may have impacts to potential wild rice waters downstream of the discharges.

Due to the elevated levels of sulfates in the mine pit dewatering discharges and seepage from the tailings basin, the MPCA is requesting the company to conduct a search for wild rice downstream of its discharge points to the confluence with the St. Louis River. The MPCA is requesting the company to gather additional information regarding wild rice downstream of its permitted discharge points. This information will be important for the permitting process to ensure that appropriate water quality standards are applied and to ensure that surface waters, including those used for the production of wild rice, are adequately protected.

The company should survey the following waters for the presence of wild rice until the waters reach the St. Louis River for the following receiving waters:

MN0044946 United Taconite - Thunderbird:

- SD-001/SD-003/SD-005: Ditch to Stream 1; Long Lake Creek to St. Louis River
- SD-002: Ditch to Stream 2; Mud Lake to Horseshoe Lake to Long Lake to Long Lake Creek to St. Louis River
- SD-004: Ditch to Snowden Creek/Elbow Creek; Elbow Lake to St. Louis River
- SD-006/SD-007/SD-008/SD-009: Ditch to Manganika Creek; Manganika Lake to East Two River to St. Louis River



Ms. Candice Maxwell
Page 2
May 27, 2010

MN0052116 United Taconite – Fairlane:

- Little Tony Lake
- Twin Lake
- Round Lake
- Murphy Lake
- Mallard Lake
- Clover Lake

The company should provide the following information to the MPCA:

1. A literature search for wild rice in the downstream receiving waters listed above impacted by the discharges to the confluence with the St. Louis River. Some data sources that may be used to determine the potential for wild rice impacts include Appendix A of the 2008 DNR Wild Rice Report, the most recent DNR Wild Rice Harvester Survey, and the 1854 Treaty Authority List. For waters listed in the DNR Wild Rice Report, Gary Drotts at 218-833-8620 and Ann Geisen at 218-833-8625 may be contacted to gather all the available Department of Natural Resources (DNR) data on those sites. Information on any active or proposed DNR management activities designed to establish, protect, or enhance the wild rice resources of these waters would be helpful.
2. A field survey to observe whether wild rice is actually present in all waters impacted by the discharge to the confluence with the St. Louis River that were determined to have potential for wild rice, either based on the literature search above or those that have characteristics which may encourage wild rice production. When the field survey is conducted, it should be conducted by a qualified professional and should take into account the cyclic nature of the growth of this aquatic plant.

We appreciate your cooperation in this matter. If you have any questions regarding this request, please contact Stephanie Handeland of my staff at 651-757-2405 or by e-mail at stephanie.handeland@state.mn.us.

Sincerely,



Chris Nelson, Manager
Strategic Projects Sector
Industrial Division

CH/SH:lmg

cc: John Thomas, MPCA Duluth Regional Office

From: Clark, Richard [Richard.Clark@state.mn.us]
Sent: Thursday, May 28, 2009 11:03 AM
To: Tom Lutes; Jasmine Scheuring
Cc: Bill Johnson; Steve Colvin; Brian Timerson; Nelson, Christopher; Kirk Rosenberger
Subject: MPCA Wild Rice Information Request

Follow Up Flag: Follow up
Flag Status: Flagged

Tom and Jasmine,

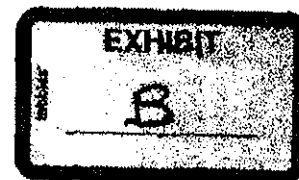
The purpose of this email is to transmit to you the type of information that the MPCA is requesting from a mining project proposer/permittee of a facility that may affect waters that contain, or have the potential to contain wild rice - this applies to the Mesabi Nugget Phase II project. It would be helpful if this information was collected as soon as practical this spring/early summer so that it can be available to the environmental review and permitting processes. If you have questions please feel free to contact me or Brian Timerson.

Richard
651-757-2280

1. Conduct a literature search for wild rice in the downstream receiving waters impacted by the proposed project. Some data sources that may be used to determine the potential for wild rice impacts includes Appendix A of the 2008 DNR Wild Rice Report, the most recent DNR Wild Rice Harvester Survey, and the 1854 Treaty Authority List. For waters listed in the DNR Wild Rice Report, contact Gary Drotts at 218-833-8620 and Ann Geisen at 218-833-8625 to gather all the available DNR data on those sites. Information on any active or proposed DNR management activities designed to establish, protect, or enhance the wild rice resources of these waters should be included. In addition, Darren Vogt of the 1854 Treaty Authority should be contacted at 218-722-8907 for any further data he may have related to sites listed on one of the above lists.

2. Undertake a cooperative information gathering/exchange process with the tribes in the project area to evaluate the past, current and future wild rice status or management objectives on the sites identified above as potential wild rice waters. Informational items to be addressed include:

- A description of the historical/cultural importance of the wild rice resources at these sites.
- An estimate of the historic size (acres) of wild rice stands at these sites with an estimate of the year in which the observation was made.
- Any information the tribe may have on if/how wild rice stands at each site may have changed over time.
- Any data the tribes may have concerning whether anything in particular has contributed to the change in the size of wild rice stands at these sites.



- A description of the current use of the sites for ricing, if any.
- Information on any active or proposed management activities designed to establish, protect, or enhance the wild rice resources of these waters.

3. Conduct a field survey to observe whether wild rice is actually present in all waters in the project area that were determined to have the potential for wild rice, either based on the literature search above or those that have characteristics which may encourage wild rice production. The field surveys should be conducted by a qualified professional and should take into account the cyclic nature of the growth of this aquatic plant.

4. Determine the current sulfate levels, as determined by known historical data or additional sampling as required, for those waters where wild rice was observed during the field survey. Sampling should be conducted at a minimum of six separate locations within discernible wild rice areas of each applicable water body or stream reach.

5. Submit any other information or data that the project proposer/permittee believes may be useful to the Agency's evaluation.

From: Foss, Ann (MPCA)

Sent: Thursday, February 25, 2010 4:57 PM

To: (curtk@millelacsojibwe.nsn.us); (dvogt@1854treatyauthority.org); (LeviB@lldrm.org); (NAXtell@1854treatyauthority.org); Bill Latad (blatady@boisforte-nsn.gov); Brandy Toft (air@lldrm.org); Charlie (charliel@millelacsojibwe.nsn.us); Cody Charwood (ccharwood@redlakenation.org); Darin Steen; Deb Dirlam; Edward Fairbanks (fairbanks.ed@epa.gov); Esteban Chiriboga (edchirib@wisc.edu); Jammie Thomas (jammiet@millelacsojibwe.nsn.us); Joy Wiecks (joywiecks@fdlrez.com); Kari Hedin (karihedin@fdlrez.com); Ken McBride (ccskier@paulbunyan.net); Kim Kegg (kkegg@millelacsojibwe.nsn.us); Lisa J (lisaj@millelacsojibwe.nsn.us); Maggy Harp (oedirector@redred.com); Margaret Watkins (watkins@boreal.org); Mary Munn (MaryMunn@fdlrez.com); Nancy Schuldt (nancyschuldt@fdlrez.com); Rick Gitar (richardgitar@fdlrez.com); Rose Berens (rozeberens@yahoo.com); Ryan R (ryanr@millelacsojibwe.nsn.us); Scott Hanson (scotthan@millelacsojibwe.nsn.us); Share Bowe (sbowe@paulbunyan.net); Ted LeGarde (gpenviro@boreal.org); Vicky Raske (gpmuseum@grandportage.com); Wayne Dupuis (waynedupuis@fdlrez.com)

Subject: MPCA decision on wild rice related to Keetac, Nugget and Polymet

I know you have been anxiously awaiting the Agency decision related to these projects.

MPCA staff met individually with the three companies this afternoon and informed them of the following:

MPCA staff has reviewed and considered the currently available information for each of these projects, including site specific wild rice data and water quality data. Based on the information and data received to date, MPCA staff has determined that it cannot at this time support a sulfate value other than 10 mg/L as the applicable ambient standard for waters used for the production of wild rice that may be impacted by these projects.

If you have any questions, please contact me

Ann Foss
Strategic Projects Director
651-757-2366



From: Clark, Richard
Sent: Thursday, May 28, 2009 6:58 AM
To: Jim Scott
Cc: Stuart Arkley ; David Blaha
Subject: MPCA Wild Rice Information Request

..... Jim,

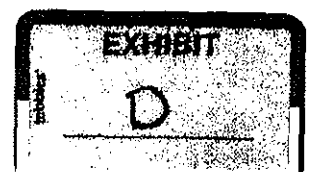
The purpose of this email is to transmit to you the type of information that the MPCA is requesting from a mining project proposer/permittee of a facility that may affect waters that contain, or have the potential to contain wild rice. For the PolyMet project this information should be collected as soon as practical so that it can be available to the environmental review and permitting processes. If you have questions please feel free to contact me or Ann Foss.

Richard
651-757-2280

1. Conduct a literature search for wild rice in the downstream receiving waters impacted by the proposed project. Some data sources that may be used to determine the potential for wild rice impacts includes Appendix A of the 2008 DNR Wild Rice Report, the most recent DNR Wild Rice Harvester Survey, and the 1854 Treaty Authority List. For waters listed in the DNR Wild Rice Report, contact Gary Drotts at 218-833-8620 and Ann Geisen at 218-833-8625 to gather all the available DNR data on those sites. Information on any active or proposed DNR management activities designed to establish, protect, or enhance the wild rice resources of these waters should be included. In addition, Darren Vogt of the 1854 Treaty Authority should be contacted at 218-722-8907 for any further data he may have related to sites listed on one of the above lists.

2. Undertake a cooperative information gathering/exchange process with the tribes in the project area to evaluate the past, current and future wild rice status or management objectives on the sites identified above as potential wild rice waters. Informational items to be addressed include:

- A description of the historical/cultural importance of the wild rice resources at these sites.
- An estimate of the historic size (acres) of wild rice stands at these sites with an estimate of the year in which the observation was made.
- Any information the tribe may have on if/how wild rice stands at each site may have changed over time.



- Any data the tribes may have concerning whether anything in particular has contributed to the change in the size of wild rice stands at these sites.
 - A description of the current use of the sites for ricing, if any.
 - Information on any active or proposed management activities designed to establish, protect, or enhance the wild rice resources of these waters.
3. Conduct a field survey to observe whether wild rice is actually present in all waters in the project area that were determined to have the potential for wild rice, either based on the literature search above or those that have characteristics which may encourage wild rice production. The field surveys should be conducted by a qualified professional and should take into account the cyclic nature of the growth of this aquatic plant.
 4. Determine the current sulfate levels, as determined by known historical data or additional sampling as required, for those waters where wild rice was observed during the field survey. Sampling should be conducted at a minimum of six separate locations within discernible wild rice areas of each applicable water body or stream reach.
 5. Submit any other information or data that the project proposer/permittee believes may be useful to the Agency's evaluation.



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-675-3843 | 651-282-5332 TTY | www.pca.state.mn.us

November 13, 2009

Mr. Jim Scott
PolyMet Mining, Inc.
P.O. Box 475, County Road 666
Hoyt Lakes, MN 55750-0475

RE: Additional Information on Wild Rice Waters

Dear Mr. Scott:

As you are aware, waters containing wild rice have been identified in the area surrounding your proposed project. In order to determine which of those waters is "used for the production of wild rice" and the appropriate sulfate standard to be applied, the Minnesota Pollution Control Agency (MPCA) staff must rely on all reasonably available information. While we are aware that attempts have been made to obtain information from Minnesota Indian Tribes and the Minnesota Department of Natural Resources (MDNR) Waters Division, it has come to our attention that additional information may be available through the MDNR Fisheries Division. The additional information may include the present and historical quality of wild rice stands in the water bodies surrounding your project area, as well as the water quality within those water bodies.

As an effort to obtain all reasonably available information, MPCA staff recommends that you contact MDNR Fisheries staff to gather additional information, if available, on the wild rice quality and water quality in those water bodies identified as containing wild rice. Contacting the regional fisheries office in your project area may be the easiest way to start your search. Any additional information available should be provided to MPCA staff as soon as possible.

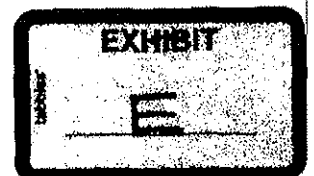
If you have any questions, please contact Richard Clark of our staff at 651-757-2280 for more information.

Sincerely,

A handwritten signature in cursive script that reads "Ann Foss".

Ann M. Foss, Director
Metallic Mining Sector
Industrial Division

AMF/RC:img





STATE OF MINNESOTA
Minnesota Pollution Control Agency

Industrial Division

National Pollutant Discharge Elimination System (NPDES)/
State Disposal System (SDS) Permit MN0031879

PERMITTEE: United States Steel Corporation, Minnesota Ore Operations - Keetac
FACILITY NAME: Keetac Mining Area
RECEIVING WATER: Welcome Lake; Welcome Creek to Reservoir 2 North; Unnamed
wetlands and creeks tributary to O'Brien Reservoir
CITY OR TOWNSHIP: Keewatin COUNTY: Itasca
ISSUANCE DATE: June 15, 2006 EXPIRATION DATE: May 31, 2011
MODIFICATION DATE: June 17, 2010

The state of Minnesota, on behalf of its citizens through the Minnesota Pollution Control Agency (MPCA), authorizes the Permittee to operate a disposal system at the facility named above and to discharge from this facility to the receiving water named above, in accordance with the requirements of this permit.

The goal of this permit is to protect water quality in accordance with Minnesota and U.S. statutes and rules, including Minn. Stat. chs. 115 and 116, Minn. R. chs. 7001, 7050, 7053, 7060, 7090.3000 through 7090.3080, and the U.S. Clean Water Act.

This permit is effective on the issuance date identified above, as modified on. This permit expires at midnight on the expiration date identified above.

Signature: Ann Davis

For Jeff Udd, P.E., Acting Supervisor
Water Quality Permits Unit
Land and Water Quality Permits Section
Industrial Division

for The Minnesota Pollution Control Agency

Submit DMRs to:

Attention: Discharge Monitoring Reports
Minnesota Pollution Control Agency
520 Lafayette Rd N
St Paul, MN 55155-4194

Submit Other WQ Reports to:

Attention: WQ Submittals Center
Minnesota Pollution Control Agency
520 Lafayette Rd N
St Paul, MN 55155-4194

Questions on this permit?

- For DMR and other permit reporting issues, contact:
Belinda Nicholas, 651-757-2613.
- For specific permit requirements or permit compliance status, contact:
John Thomas, 218-302-6616.
- General permit or NPDES program questions, contact:
MPCA, 651-282-6143 or 1-800-657-3938.

520 Lafayette Rd, N.; St. Paul, MN 55155-4194; 651-295-6300 (voice); 651-282-5332 (TTY)

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EXHIBIT

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Table of Contents	Page
Permitted Facility Description	3
Topographic Map of Permitted Facility	5
Summary of Stations and Station Locations	6
Limits and Monitoring Requirements	7
Chapter 1. Special Requirements	15
Chapter 2. Compliance Schedule	17
Chapter 3. Industrial Process Wastewater	17
Chapter 4. Metallic Mining	20
Chapter 5. Water Treatment	20
Chapter 6. Stormwater Management	21
Chapter 7. Chemical Additives	22
Chapter 8. Surface Discharge Stations	23
Chapter 9. Waste Stream Stations	24
Chapter 10. Total Facility Requirements	24

Facility Description

The principal activity at this facility is the open pit mining of taconite (Biwabik Iron Formation) at a maximum rate of approximately 32 million long tons per year for processing into taconite pellets. The facility consists of the United States Steel Corporation, Minnesota Ore Operations – Keetac plant area, all mine excavations, mining waste disposal areas, plant areas, materials and equipment storage areas, and wastewater disposal facilities within the area designated on the map on page 5.

The plant area includes the above-mentioned shops as well as several equipment storage buildings, the general office building, the water supply treatment plant, fuel storage area, crude ore storage building, concentrator, pellet plant, various processing thickeners, laboratory, power substation, coal, concentrate and pellet stockpile areas, and the pellet rail load-out area. Yard and roof run-off from the plant area is routed either to the Bennett Pit, Welcome Lake, or to the Diversion Ditch System. The water supply treatment plant, located just north of Welcome Lake, uses potassium permanganate and potassium hydroxide for iron removal. The water treatment plant backwash wastewater from the sand filters is periodically discharged through culvert outfall SD001, at a rate of less than 0.010 MGD, to Welcome Lake (class 2B, 3B, 4A, 4B, 5 and 6 waters). Filter backwash solids from the water treatment plant are land applied on a site within the inactive Bennett tailings basin (SW ¼ of Section 17, T57N, R21W).

Most surface drainage from mining waste disposal and excavation areas in the facility is collected in mine pit sumps and then pumped to Reservoir 5. The Bennett Pit water overflows to the Russell Pit, which is pumped at an average rate of 4.0 million gallons per day (MGD) to Reservoir 5. This treatment basin also receives surface flow from inactive stockpiles and tailings basins. Reservoir 5 also provides some make-up water for processing in the Keewatin Taconite plant. Reservoir 5 outflows through a decant control structure to the Diversion Ditch System, constructed as a series of ten sedimentation basins and a conveyance channel. These basins help to treat run-off from the Keewatin Taconite plant area, as well as some active and inactive stockpile areas. The ditch system discharges through weir outfall SD002 at an average rate of 2.3 MGD to Welcome Creek (class 2C, 3C, 4A, 4B, 5 and 6 waters).

Mine pit dewatering from the Mesabi Chief Pit may be pumped and discharged through pipe outfall SD003, at an average rate of 5.85 MGD, to O'Brien Creek (2C, 3C, 4A, 4B, 5 and 6 water) which flows to the O'Brien Reservoir (class 2B, 3B, 4A, 4B, 5 and 6 water). Some mining waste stockpile drainage from the northwestern side of the facility flows to unnamed wetlands and creeks tributary to O'Brien Reservoir.

Stormwater from stripping and stockpiling activities west of the Mesabi Chief mining area flows into the Perry Pit. This permit authorizes discharges of mine pit dewatering from the Perry Pit through pipe outfall SD012 at rate of up to 4.32 MGD to O'Brien Creek.

Wastewater drainage is collected in the bottom of the two coarse crushers located in the Section 18 Pit. Crusher #1 wastewater is pumped at an average rate of 2.6 MGD to Sump #1, then to Reservoir 5. Crusher #2 wastewater is pumped to the Section 18 Pit, then to Reservoir 5. A septic tank/drainfield system handles the sanitary wastewater generated at the two coarse crushers, at a rate of less than 10,000 gallons per day (gpd). Dry storage buildings, which generate no process or sanitary wastewaters, are located at the facility north of Reservoir 5, south of the coarse crushers and east of the main plant area. A shovel repair area located on the northwest side of the Russell Pit, in the NW ¼, Section 13, T57N, R22W, also generates no process or sanitary wastewaters.

The combined floor drain overflow from the concentrator and the pellet plant is routed to the Bennett Pit. This overflow may include emergency overflow process wastewater from the concentrator if a power failure occurs. All steam cleaning and floor drain wastewater from the truck shops and the plant/machine/welding shops is treated by an oil/water separator and sedimentation tank before overflowing to a drainage pipe to the Bennett Pit. Sludge from the shop areas are taken off-site for treatment or disposal. Oils removed by the oil/water separator are reclaimed for reuse.

Two recirculating wet scrubbers treat waste gas from the Phase II indurating grate-kiln. Blowdown water from these wet scrubbers is sent to a wastewater treatment system. The treatment system is used when the indurating grate-kiln is using coal as a fuel source. The wastewater treatment system includes lime addition to promote calcium sulfate (gypsum) precipitation and solids settling in an existing thickener (old indurating thickener). Solids from the thickener are dewatered using two filter presses and disposed off-site. Overflow from the thickener and filtrate from the filter presses are sent to the tailings basin. Waste station WS011 is located at the plant water make-up to the scrubber system and waste station WS012 is located on the overflow from the indurating thickener prior to being sent to the tailings basin.

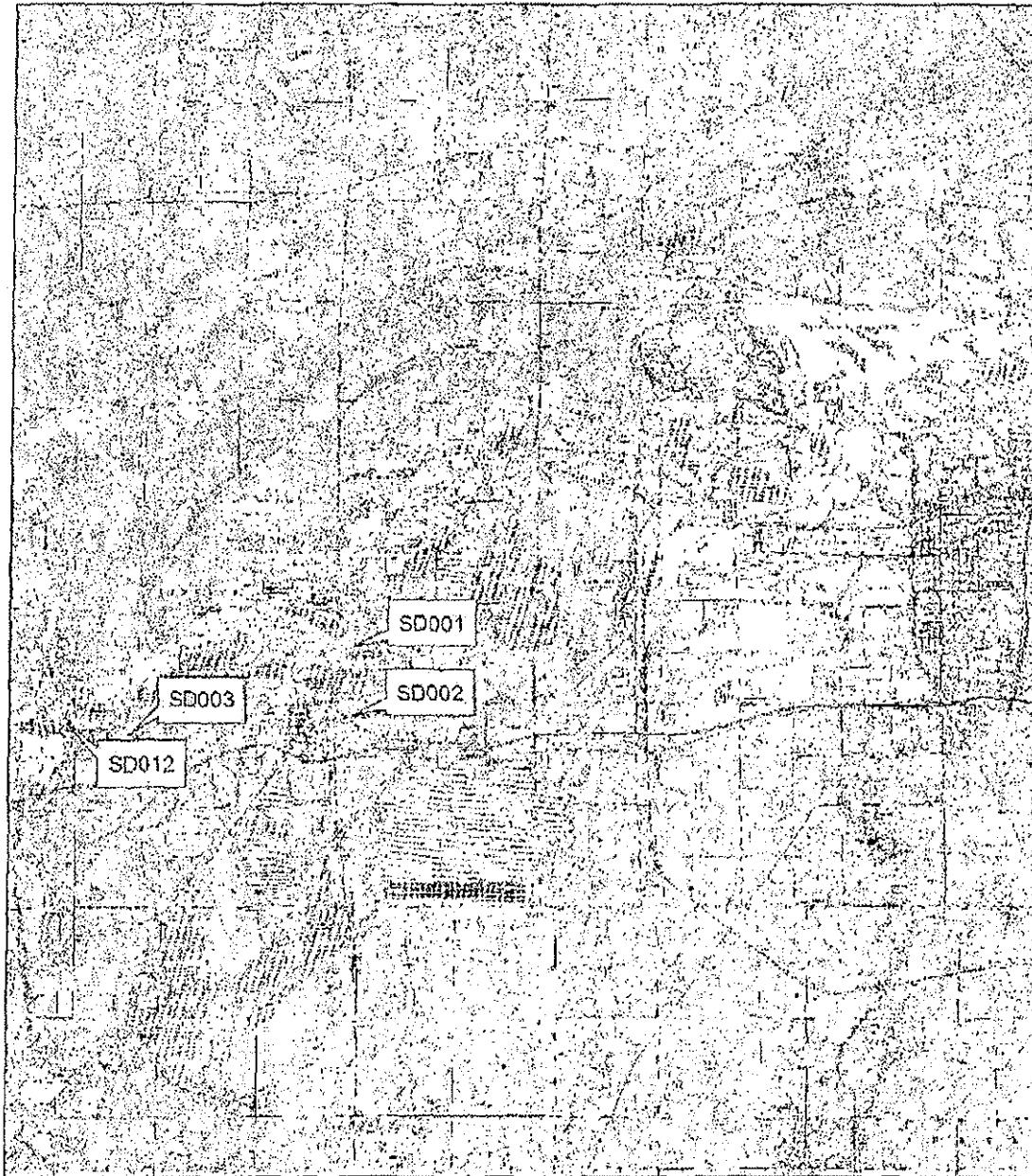
An activated sludge package plant consisting of a bar screen, comminutor, diffused aeration tank, sludge holding tank, and chlorination contact tank is used for the treatment of domestic wastewater. The sewage plant is designed to treat an average flow of 0.040 MGD with five-day carbonaceous biochemical oxygen demand (CBOD5) strength of 140 milligrams per liter (mg/l). No active dechlorination treatment is provided. The treated sanitary wastewater effluent is routed through weir station WS005 to Reservoir 5. The biosolids are transferred off-site to a permitted wastewater treatment facility.

Parallel tailings pipelines exit the north side of the concentrator and approximately follow the Diversion Ditch System east and south before crossing Highway 169 toward the Keewatin Taconite Tailings Basin Area. Segments of these pipelines do not have spill containment berms, and some leaks from pipelines north of Highway 169 may flow toward the Diversion Ditch. The tailings are pumped through the pipelines, which include three dump valve drainage points north of Highway 169. These dump valve points include detention basins and ponds used to contain tailings and process wastewater that is drained during normal maintenance and emergency shutdown situations. Dump Points 1 and 2 overflow to the Diversion Ditch System, while Dump Point 3 drains to a non-discharging infiltration basin. The tailings that do accumulate in these detention basins and ponds are typically removed every two years and hauled by truck for disposal in the Keewatin Taconite Tailings Basin, which is covered by permit MN0055948.

Chemical dust suppressants are occasionally applied on roads in the immediate plant area. Currently, magnesium chloride and lignosulfonate are used at a maximum rate of 11,000 gallons per year. This does not restrict the use of other acceptable dust suppressants at the facility.

Topographic Map of Permitted Facility

MN003189, US Steel - Keewatin Taconite Operations, Mining
St. Louis County & Itasca County, Minnesota



Map produced by: MPCA Staff, 4/15/2010
Source: USGS Nashwaak, Keewatin, Hibbing,
Pengilly, Silica, Riley Quads
Scale: 1:24,000

0 0.5 1 2 Miles



Keewatin Taconite Operations - Mining Summary of Stations

Waste Stream Stations

<u>Station</u>	<u>Type of Station</u>	<u>Local Name</u>	<u>PLS Location</u>
WS302	Solids to Land Treatment/Application	Shop wastewater treatment sludges	
WS303	Solids to Land Treatment/Application	WTP filter backwash treatment sludges	SW Quarter of the NW Quarter of the Section 19, Township 57 North, Range 21 West

Surface Discharge Stations

<u>Station</u>	<u>Type of Station</u>	<u>Local Name</u>	<u>PLS Location</u>
SD001	Effluent To Surface Water	WTP Backwash Outfall 040	SE Quarter of the SW Quarter of the NW Quarter of Section 19, Township 57 North, Range 21 West
SD002	Effluent To Surface Water	Weir Outfall 050	NE Quarter of the NW Quarter of the NW Quarter of Section 30, Township 57 North, Range 21 West
SD003	Effluent To Surface Water	Pipe Outfall 080	SW Quarter of the NE Quarter of the NE Quarter of Section 27, Township 57 North, Range 22 West
SD011	Stormwater, Non-specific Runoff		Section 19, Township 57 North, Range 21 West
SD012	Effluent To Surface Water	Perry Pit Dewatering	

Waste Stream Stations

<u>Station</u>	<u>Type of Station</u>	<u>Local Name</u>	<u>PLS Location</u>
WS005	Internal Waste Stream	Station 901	NW Quarter of the NW Quarter of Section 19, Township 57 North, Range 21 West
WS011	Internal Waste Stream	Plant water to scrubber system	NW Quarter of Section 19, Township 57 North, Range 21 West
WS012	Internal Waste Stream	Scrubber blowdown after treatment	NW Quarter of Section 19, Township 57 North, Range 21 West

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Interim Period

SD 001

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Quarter Average	Jan-Dec	Measurement, Instantaneous	1 x Quarter	1
Flow	Monitor Only	MG	Calendar Quarter Total	Jan-Dec	Measurement, Instantaneous	1 x Quarter	1
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Quarter	1
Phosphorus, Total (as P)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Quarter	1
Solids, Total Suspended (TSS)	30	mg/l	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1

SD 002

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	2 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	2 x Month	
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
Nitrogen, Ammonia, Un-ionized (as N)	0.04	mg/L	Calendar Month Average	Mar-Oct	Calculation	1 x Month	
Nitrogen, Ammonia, Un-ionized (as N)	Monitor Only	mg/L	Daily Maximum	Mar-Oct	Calculation	1 x Month	
Oil & Grease, Total Recoverable (Hexane Extraction)	0.5	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Oil & Grease, Total Recoverable (Hexane Extraction)	5.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	8.5	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.5	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	20	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Quarter	1
Sulfate, Total (as SO4)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO4)	Monitor Only	mg/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	
Temperature, Water	Monitor Only	Deg F	Calendar Month Average	Mar-Oct	Estimate, Instantaneous	1 x Month	
Temperature, Water	Monitor Only	Deg F	Daily Maximum	Mar-Oct	Estimate, Instantaneous	1 x Month	
Turbidity	25	NTU	Calendar Month Average	Jan-Dec	Grab	2 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Interim Period

SD 002

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Turbidity	Monitor Only	NTU	Daily Maximum	Jan-Dec	Grab	2 x Month	

SD 003

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
Oil & Grease, Total Recoverable (Hexane Extraction)	0.5	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Oil & Grease, Total Recoverable (Hexane Extraction)	5.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	8.5	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.5	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	20	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Quarter	1
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Calendar Year Maximum	Jan-Dec	Grab	2 x Month	
Turbidity	25	NTU	Calendar Month Average	Jan-Dec	Grab	1 x Month	

SD 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Bicarbonates	7	meq/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	4
Bicarbonates	12	meq/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	4
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Hardness, Calcium & Magnesium, Calculated (as CaCO ₃)	Monitor Only	mg/L	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Interim Period

SD 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	
Solids, Total Dissolved (TDS)	Monitor Only	mg/L	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Solids, Total Suspended (TSS)	20	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	

WS 005

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
BOD, Carbonaceous 05 Day (20 Deg C)	3.8	kg/day	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	25	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	6.0	kg/day	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	40	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Fecal Coliform, MPN or Membrane Filter 44.5C	200	#100ml	Calendar Month Geometric Mean	Apr-Oct	Grab	2 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement, Continuous	1 x Day	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement, Continuous	1 x Day	
Flow	Monitor Only	mgd	Maximum Calendar Week Average	Jan-Dec	Measurement, Continuous	1 x Day	
Nitrogen, Total (as N)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	2 x Month	
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	2 x Month	
Phosphorus, Total (as P)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Phosphorus, Total (as P)	Monitor Only	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	4.5	kg/day	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Interim Period

WS 005

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Solids, Total Suspended (TSS)	6.8	kg/day	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	45	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	

WS 011

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Calcium, Total (as Ca)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Fluoride, Total (as F)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
pH	Monitor Only	SU	Single Value	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Month	
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	

WS 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Calcium, Total (as Ca)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Fluoride, Total (as F)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
pH	Monitor Only	SU	Single Value	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Month	
Sulfate, Total (as SO ₄)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	

Period: Limits Applicable in the Final Period

SD 001

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Quarter Average	Jan-Dec	Measurement, Instantaneous	1 x Quarter	1
Flow	Monitor Only	MG	Calendar Quarter Total	Jan-Dec	Measurement, Instantaneous	1 x Quarter	1

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Final Period
SD 001

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Quarter	1
Phosphorus, Total (as P)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Quarter	1
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1

SD 002

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	2 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	2 x Month	
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
Nitrogen, Ammonia, Un-ionized (as N)	0.04	mg/L	Calendar Month Average	Mar-Oct	Calculation	1 x Month	
Nitrogen, Ammonia, Un-ionized (as N)	Monitor Only	mg/L	Daily Maximum	Mar-Oct	Calculation	1 x Month	
Oil & Grease, Total Recoverable (Hexane Extraction)	0.5	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Oil & Grease, Total Recoverable (Hexane Extraction)	5.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	8.5	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.5	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	20	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Quarter	1
Sulfate, Total (as SO4)	14	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO4)	24	mg/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	
Temperature, Water	Monitor Only	Deg F	Calendar Month Average	Mar-Oct	Estimate, Instantaneous	1 x Month	
Temperature, Water	Monitor Only	Deg F	Daily Maximum	Mar-Oct	Estimate, Instantaneous	1 x Month	
Turbidity	25	NTU	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Turbidity	Monitor Only	NTU	Daily Maximum	Jan-Dec	Grab	2 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Final Period

SD 003

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
Oil & Grease, Total Recoverable (Hexane Extraction)	0.5	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Oil & Grease, Total Recoverable (Hexane Extraction)	5.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
pH	8.5	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.5	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	20	mg/L	Calendar Quarter Average	Jan-Dec	Grab	1 x Quarter	1
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	1
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Quarter	1
Sulfate, Total (as SO ₄)	14	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO ₄)	24	mg/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	
Turbidity	25	NTU	Calendar Month Average	Jan-Dec	Grab	1 x Month	

SD 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Bicarbonates	7	meq/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	4
Bicarbonates	12	meq/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	4
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Hardness, Calcium & Magnesium, Calculated (as CaCO ₃)	Monitor Only	mg/L	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Iron, Dissolved (as Fe)	1.0	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Iron, Dissolved (as Fe)	2.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	1 x Month	
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	1 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Final Period

SD 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Solids, Total Dissolved (TDS)	Monitor Only	mg/L	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Solids, Total Suspended (TSS)	20	mg/L	Calendar Month Average	Jan-Dec	Grab	1 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Calendar Quarter Maximum	Jan-Dec	Grab	1 x Quarter	3
Sulfate, Total (as SO ₄)	14	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
Sulfate, Total (as SO ₄)	24	mg/L	Calendar Month Maximum	Jan-Dec	Grab	2 x Month	

WS 005

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
BOD, Carbonaceous 05 Day (20 Deg C)	3.8	kg/day	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	25	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	6.0	kg/day	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
BOD, Carbonaceous 05 Day (20 Deg C)	40	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Fecal Coliform, MPN or Membrane Filter 44.5C	200	#/100ml	Calendar Month Geometric Mean	Apr-Oct	Grab	2 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement, Continuous	1 x Day	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement, Continuous	1 x Day	
Flow	Monitor Only	mgd	Maximum Calendar Week Average	Jan-Dec	Measurement, Continuous	1 x Day	
Nitrogen, Total (as N)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	Grab	2 x Month	
pH	9.0	SU	Instantaneous Maximum	Jan-Dec	Grab	2 x Month	
pH	6.0	SU	Instantaneous Minimum	Jan-Dec	Grab	2 x Month	
Phosphorus, Total (as P)	Monitor Only	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Phosphorus, Total (as P)	Monitor Only	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	4.5	kg/day	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	30	mg/L	Calendar Month Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	6.8	kg/day	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	
Solids, Total Suspended (TSS)	45	mg/L	Maximum Calendar Week Average	Jan-Dec	8-Hour Flow Composite	2 x Month	

Keewatin Taconite Operations - Mining Limits and Monitoring Requirements

The Permittee shall comply with the limits and monitoring requirements as specified below.

Period: Limits Applicable in the Final Period

WS 011

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Calcium, Total (as Ca)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Fluoride, Total (as F)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
pH	Monitor Only	SU	Single Value	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Month	
Sulfate, Total (as SO4)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	

WS 012

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Calcium, Total (as Ca)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement	1 x Month	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement	1 x Month	
Fluoride, Total (as F)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	
Mercury, Total (as Hg)	Monitor Only	ng/L	Single Value	Jan-Dec	Grab	1 x Quarter	2
pH	Monitor Only	SU	Single Value	Jan-Dec	Grab	1 x Month	
Specific Conductance	Monitor Only	umh/cm	Single Value	Jan-Dec	Grab	1 x Month	
Sulfate, Total (as SO4)	Monitor Only	mg/L	Single Value	Jan-Dec	Grab	1 x Month	

Notes:

1 -- Samples may be taken any time during each calendar quarter but must be reported on the DMR for the last month of each quarter (e.g. the sample for the first calendar quarter of Jan - Mar should be reported on the March DMR).

2 -- Samples may be taken any time during each calendar quarter but must be reported on the DMR for the last month of each quarter (e.g. the sample for the first calendar quarter of Jan - Mar should be reported on the March DMR). Use EPA method 1631, with clean techniques method 1669, and any revisions to this methods.

3 -- Samples may be taken any time during each calendar quarter but must be reported on the DMR for the last month of each quarter (e.g. the sample for the first calendar quarter of Jan - Mar should be reported on the March DMR). The permittee may request to modify this permit after 12 months of monitoring data have been submitted to MPCA, in order to remove or modify limits or monitoring requirements.

4 -- The permittee may request to modify this permit after 12 months of monitoring data have been submitted to MPCA, in order to remove or modify limits or monitoring requirements.

Chapter 1. Special Requirements

1. Compliance Schedule

Compliance Schedule for Sulfate

- 1.1 The Permittee shall meet the terms of the compliance schedule detailed below in order to attain compliance with the final effluent limitations contained in this permit for total sulfate.

The Permittee shall continue to work toward minimizing sulfate in the discharges to the extent practical prior to the compliance date. Compliance with the final effluent limitations shall be attained as soon as possible, and in no case shall compliance be attained later than 98 months from the effective date of this permit unless the permit is modified pursuant to 40 CFR 122.62.

Water Management Study

- 1.2 Within 60 days of the effective date of the permit modification, the Permittee will submit for MPCA review and approval a Water Management Study Plan. The Water Management Study Plan will include an evaluation of current water management and identify any potential water management alternatives that may lead to compliance. The Water Management Study Plan may be modified pursuant to MPCA review.
- 1.3 The Water Management Study shall be completed within 18 months of MPCA approval of the Water Management Study Plan. The Permittee, upon approval from the MPCA, may make revisions to the Water Management Study Plan as new alternatives and information emerge and as deemed appropriate. The Permittee shall notify the MPCA within 14 days of completion of the Water Management Study.
- 1.4 The Permittee shall provide written progress updates on the Water Management Study to the MPCA every six months, at minimum, following MPCA approval of the Water Management Study Plan. Additional updates can be provided in the form of electronic transmittals, conference calls or meetings.
- 1.5 The Permittee shall provide the results of the Study to the MPCA within three months of the Study completion.

Sulfate Reduction Strategy Study

- 1.6 Within 90 days of the effective date of the permit, the Permittee will submit for MPCA review and approval a Sulfate Reduction Strategy Study Plan. The Sulfate Reduction Strategy Study Plan will include an evaluation of source control strategies, sulfate treatment technology and process optimization changes. The Plan may include trials or pilot testing of technologies. The Plan may be modified pursuant to MPCA review.
- 1.7 The Sulfate Reduction Study shall be completed within 18 months of MPCA approval of the Sulfate Reduction Strategy Study Plan. The Permittee, upon approval from the MPCA, may revise to the Study Plan as new alternatives and information emerge and as deemed appropriate. The Permittee shall notify the MPCA within 14 days of completion of the Sulfate Reduction Strategy Study.
- 1.8 The Permittee shall provide written progress updates on the Sulfate Reduction Strategy Study to the MPCA every six months, at minimum, following MPCA approval of the Sulfate Reduction Strategy Study Plan. Additional updates can be provided in the form of electronic transmittals, conference calls or meetings.
- 1.9 The Permittee shall provide the results of the Sulfate Reduction Strategy Study to the MPCA within three months of completion of the study.

Sulfate Reduction Plan

- 1.10 Based on the Results of the Water Management Study and the Sulfate Reduction Strategy Study, and within three months of the submittals of both studies, the Permittee shall provide a Sulfate Reduction Plan to achieve compliance with the final effluent limitation for total sulfate standard for MPCA review and approval.

Chapter 1. Special Requirements

1. Compliance Schedule

- 1.11 If the Sulfate Reduction Plan proposes the installation of treatment technology, the Permittee shall obtain all applicable permits and approvals, including approval of plans and specifications from the MPCA prior to any construction.

If the Sulfate Reduction Plan proposes the installation of sulfate treatment equipment on multiple outfalls, the Permittee may propose to evaluate implementation of the treatment equipment on one outfall to determine effectiveness prior to installation of the same technology on similar outfalls. In this case, the Sulfate Reduction Plan shall include a request for MPCA approval which identifies each proposed treatment technology and any outfalls for which it is proposed. Such request for approval shall include applications for all applicable permits and submission of final plans and specifications.

- 1.12 The Permittee shall provide written progress reports on the implementation of the Sulfate Reduction Plan to the MPCA every six months, at minimum, following MPCA approval of the Sulfate Reduction Plan. Additional updates can be provided in the form of electronic transmittals, conference calls or meetings.
- 1.13 If the installation of sulfate treatment equipment on one outfall to determine effectiveness is approved by the MPCA, the permitting, installation of the equipment, and evaluation of effectiveness shall be completed within 36 months of MPCA approval of the Sulfate Reduction Plan. The Permittee shall notify the MPCA within 14 days of completing the evaluation.
- 1.14 The Permittee shall attain compliance with final effluent limitations for total sulfate within 30 months of completing the treatment evaluation if approved by the MPCA, or within 30 months of MPCA approval of the Sulfate Reduction Plan if equipment evaluation is not approved or determined not to be necessary.
- 1.15 The Permittee shall submit written notification of compliance to the MPCA within 14 days of completing all actions required for attainment compliance with final effluent limitations. The notification of compliance shall include a notification that installation and startup of treatment equipment has been completed, or shall include a submission of a representative effluent monitoring data set if equipment is not determined to be necessary. The MPCA will submit notification to the Permittee that final effluent limitations apply.

2. Special Requirements

Effluent Limit Study

- 2.1 The Permittee may opt to conduct a study to gather data and information that would support a total sulfate limit other than the final limitations included in this permit.
- 2.2 If the Permittee opts to pursue a study, the permittee shall submit a study protocol to MPCA. The study protocol will include but is not limited to:
- A study strategy to address water chemistry, hydrology and vegetation.
 - A sampling strategy, and
 - A reporting requirement with defined submission frequency.
- 2.3 This permit may be reopened for modification to the final effluent limitations for total sulfate or to the conditions of the compliance schedule contained in this chapter, pursuant to any new information obtained during the effective term of the permit. All applicable state and federal requirements with regard to modification of permits shall be addressed in any modification of permit conditions.

Chapter 2. Compliance Schedule

1. Compliance Schedule

- 1.1 The Permittee shall comply with the following compliance schedule to evaluate the technical and economic feasibility of compliance with the permitted effluent limits for turbidity at SD002. This compliance schedule is not related to the requirements for attaining compliance with effluent limitations for total sulfate in Chapter 1 of this permit.
- 1.2 Within 18 months of permit reissuance, submit for MPCA review and approval a comprehensive list of alternatives including, at minimum, treatment technologies, groundwater diversion, basin reconfiguration, and operation and maintenance strategies, that could be used to obtain compliance with effluent limits at SD002. The "Diversion Ditch System Evaluation Report" dated December 1, 1999, may be used, in part, to develop the list of alternatives.
- 1.3 Within 18 months of the submittal date of Item 1, submit for MPCA review and approval a technical and economic feasibility evaluation of the comprehensive list of alternatives developed in Item 1. If an alternative is considered to be technically or economically infeasible, the Permittee shall follow Minn. R. 7000.7000 to justify this determination. The submittal shall also include a detailed schedule for implementation of a preferred (or combination of) alternatives from those alternatives deemed technically and economically feasible, which will ensure compliance with the effluent limits at SD002. The schedule shall reflect implementation of a preferred (or combination of) alternatives no later than the expiration date of this permit.
- 1.4 Within 180 days of MPCA approval of Item 2 or prior to permit expiration, whichever occurs first, if no alternatives are considered technically and economically feasible, the Permittee shall submit a written application for variance from the applicable water quality standards, following the requirements in Minn. R. 7000.7000, Subp.2, and shall address the standard in Minn. R. 7050.0190. At a minimum, the variance application must include specific alternatives that were considered and deferred by the Permittee and the reasons why those treatment technologies are technically and/or economically infeasible. The Permittee may draw on information developed under the "Diversion Ditch System Evaluation Report" in addressing the technical/financial infeasibility issue. The variance application must identify an alternative standard that is technically and/or financially feasible and when that standard will be achieved. The variance application must identify the potential environmental impacts of the alternative standard and any monitoring that the Permittee proposes to evaluate the potential impacts if the variance is granted. Additional submittals may include an application for permit modification.

Chapter 3. Industrial Process Wastewater

1. Prohibited Discharges

- 1.1 This permit does not authorize the discharge of sewage, wash water, scrubber water, spills, oil, hazardous substances, or equipment/vehicle cleaning and maintenance wastewaters to ditches, wetlands or other surface waters of the state.
- 1.2 The Permittee shall prevent the routing of pollutants from the facility to a municipal wastewater treatment system in any manner unless authorized by the pretreatment standards of the MPCA and the municipal authority.
- 1.3 The Permittee shall not transport pollutants to a municipal wastewater treatment system that will interfere with the operation of the treatment system or cause pass-through violations of effluent limits or water quality standards.

Chapter 3. Industrial Process Wastewater

2. Toxic Substance Reporting

2.1 The Permittee shall notify the MPCA immediately of any knowledge or reason to believe that an activity has occurred that would result in the discharge of a toxic pollutant listed in Minnesota Rules, pt. 7001.1060, subp. 4 to 10 or listed below that is not limited in the permit, if the discharge of this toxic pollutant has exceeded or is expected to exceed the following levels:

- a. for acrolein and acrylonitrile, 200 ug/L;
- b. for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol, 500 ug/L;
- c. for antimony, 1mg/L;
- d. for any other toxic pollutant listed in Minnesota Rules, pt. 7001.1060, subp. 4 to 10, 100 ug/L; or
- e. five times the maximum concentration value identified and reported for that pollutant in the permit application. (Minnesota Rules, pt. 7001.1090, subp. 2.A)

2.2 The Permittee shall notify the MPCA immediately if the Permittee has begun or expects to begin to use or manufacture as an intermediate or final by-product a toxic pollutant that was not reported in the permit application under Minnesota Rules, pt. 7001.1050, subp. 2.J. (Minnesota Rules, pt. 7001.1090, subp. 2.B)

3. Hydrotest Discharges

3.1 The Permittee shall notify the MPCA prior to discharging hydrostatic test waters. The Permittee shall provide information necessary to evaluate the potential impact of this discharge and to ensure compliance with this permit. This information shall include:

- a. the proposed discharge dates;
- b. the name and location of receiving waters, including city or township, county, and township/range location;
- c. an evaluation of the impact of the discharge on the receiving waters in relation to the water quality standards;
- d. a map identifying discharge location(s) and monitoring point(s);
- e. the estimated average and maximum discharge rates;
- f. the estimated total flow volume of discharge;
- g. the water supply for the test water, with a copy of the appropriate Minnesota Department of Natural Resources (DNR) water appropriation permit;
- h. water quality data for the water supply;
- i. proposed treatment method(s) before discharge; and
- j. methods to be used to prevent scouring and erosion due to the discharge.

3.2 This permit does not authorize the construction or installation of pipeline facilities.

4. Polychlorinated Biphenyls (PCBs)

4.1 PCBs, including but not limited to those used in electrical transformers and capacitors, shall not be discharged or released to the environment.

Chapter 3. Industrial Process Wastewater

5. New Proposed Dewatering

- 5.1 The Permittee shall obtain a permit modification before discharging from a new dewatering outfall.
- 5.2 In addition to the requirements in the Permit Modifications section of this permit, the Permittee shall submit to the MPCA detailed plans and specifications for the proposed methods of achieving discharge limits for turbidity and total suspended solids, based in part upon representative water quality data for untreated wastewater and a detailed map and diagram description of the proposed design for the flow control structures, and route of the discharge to receiving waters.

6. Application for Permit Reissuance

- 6.1 The permit application shall include analytical data as part of the application for reissuance of this permit. These analyses shall be done on individual samples taken during the twelve-month period before the reissuance application is submitted.
- 6.2 The Permittee shall include, as part of the application for reissuance of this permit, an updated Pollution Prevention Plan for the facility.
- 6.3 The permit application shall include analytical data for at least the following parameters at monitoring station SD002:

a. biochemical oxygen demand, chemical oxygen demand, total organic carbon, gasoline range organics, diesel range organics, fecal coliform, ammonia, temperature;

b. color, fluoride, nitrate-nitrite (as nitrogen), total organic nitrogen, oil and grease, total phosphorus, chloride, sulfate, sulfide (as sulfur), surfactants, bicarbonates, alkalinity, total salinity, total dissolved solids, specific conductance;

c. aluminum, antimony, arsenic, barium, beryllium, boron, cadmium, calcium, chromium, cobalt, copper, iron, lead, lithium, magnesium, manganese, molybdenum, nickel, potassium, selenium, silver, sodium, strontium, thallium, tin, titanium, vanadium, zinc (all in total form) using atomic absorption (AA) furnace methods according to 40 CFR Part 136.3;

d. total mercury using EPA Method 1631;

e. gross alpha particles, radium-226, radium-228, radon-222, uranium;

f. PCB-1016, PCB-1221, PCB-1232, PCB-1242, PCB-1248, PCB-1254, PCB-1260; and

g. a scan of constituents using EPA Methods 624 and 625, in 40 CFR Part 136.

The Permittee shall identify, in addition to those pollutants noted in Methods 624 and 625 (Appendix D, Table II), the concentrations of at least ten of the most abundant constituents of the acid and base/neutral organic fractions shown to be present by peaks on the total ion plots (reconstructed gas chromatograms) within ten percent of the nearest internal standard. Identification shall be through the use of U.S. EPA/NIH computerized library of mass spectra, with visual confirmation and potential quantification.

- 6.4 The Pollution Prevention Plan may be a revision of or an attachment to the current Pollution Prevention Plan.

Chapter 4. Metallic Mining

1. Mobile and Rail Equipment Service Areas

- 1.1 Mobile equipment and rail equipment service areas in the facility shall be operated in compliance with the following:
 - a. The Permittee shall collect and dispose of locomotive traction sand, degreasing wastes, motor oil, oil filters, oil sorbent pads and booms, transmission fluids, power steering fluids, brake fluids, coolant/antifreeze, radiator flush wastewater and spent solvents in accordance with applicable solid and hazardous waste management rules. These materials shall not be discharged to surface or ground waters of the state.
 - b. The steam-cleaning of mobile equipment and rail equipment, except for limited outdoor cleaning of large drills and shovels, shall be conducted in wash bays that drain to wastewater treatment systems that include the removal of suspended solids and flammable liquids. The only washing of mobile equipment done in outside areas shall be to remove mud and dirt that has accumulated during outside work.
 - c. The Permittee shall not use solvent-based cleaners, such as those available for brake cleaning and degreasing, to wash mobile and rail equipment unless the cleaning fluids are completely contained and not allowed to flow to surface or ground waters of the state. Soaps and detergents used in washing shall be biodegradable.
 - d. Mobile and rail equipment maintenance and repairs shall not be conducted in wash bays.
 - e. Hazardous materials shall not be stored or handled in wash bays.
 - f. The Permittee shall inspect wastewater containment systems regularly, and repair any leaks that are detected immediately.
 - g. If the Permittee discovers that recoverable amounts of petroleum products have entered wastewater containment systems, they shall be recovered immediately and reported to the MPCA.
 - h. Spill cleanup procedures shall be reviewed annually with all mobile equipment maintenance personnel.

Chapter 5. Water Treatment

1. Residual Solids Management

- 1.1 The Permittee shall provide for the effective management and/or disposal of residual solids, or other substances resulting from treatment of potable water.
- 1.2 The Permittee shall dispose of residual solids in such a manner and at such locations that disposal practices shall not result in unlawful pollution of the air, surface water or ground water, or create nuisance conditions.

2. Waste Materials - Stockpiling

- 2.1 Stockpiling residual solids is prohibited unless authorized by the MPCA. If the Permittee proposes to stockpile residual solids, the Permittee shall submit a description of the type and amount of solids to be stockpiled and the proposed location of the stockpiles for review and approval.

3. Waste Materials - Nuisance Conditions

- 3.1 The Permittee shall notify the MPCA of any nuisance conditions, such as wind blown lime residual solids dust, immediately and take necessary actions to control and abate these conditions. (Minnesota Statutes, section 115.061)

Chapter 5. Water Treatment

4. Waste Materials - Land Application Restrictions

- 4.1 The Permittee shall not apply residual solids within 200 feet of any place of habitation or recreational area or within 100 feet of intermittent streams.
- 4.2 The Permittee shall apply residual solids uniformly over the entire site.
- 4.3 The Permittee shall regulate surface application rates to prevent surface runoff from the land application site.
- 4.4 The residual solids application rate shall be based on the University of Minnesota, College of Agriculture recommended application rates for Agricultural Liming Material (ALM).
- 4.5 Land application is not allowed when radium concentration in the waste product exceeds 50 pci per gram on a dry weight basis. Wastes with radium concentrations not exceeding 50 pci per gram may be land applied if the resulting radium concentration of the soil can be shown to not exceed 5 pci per gram. Testing shall be done according to nationally accepted laboratory procedures, such as the U.S. Department of Energy procedures manual.
- 4.6 Residual solids shall not be applied on any land without the owner's permission.

Chapter 6. Stormwater Management

1. Authorization

- 1.1 This chapter authorizes the Permittee to discharge stormwater associated with industrial activity in accordance with the terms and conditions of this chapter.

2. Prohibited Discharges

- 2.1 This permit, unless specifically authorized by another chapter, does not authorize the discharge of sewage, wash water, scrubber water, spills, oil, hazardous substances, or equipment/vehicle cleaning and maintenance wastewaters to ditches, wetlands or other surface waters of the state.
- 2.2 This permit does not authorize discharges from sites for which Environmental Assessment Worksheets or Environmental Impact Statements are required, in accordance with Minn. R. ch. 4410, until that environmental review is completed.
- 2.3 This permit does not authorize the discharge of stormwater associated with an industrial activity if the pollutant loading in the waste stream does not meet the minimum secondary treatment limits for CBOD5 and/or Total Suspended Solids.

3. Water Quality Standards

- 3.1 The Permittee shall operate and maintain the facility and shall control runoff, including stormwater, from the facility to prevent the exceedance of water quality standards specified in Minnesota Rules, chs. 7050 and 7060.
- 3.2 The Permittee shall limit and control the use of materials at the facility that may cause exceedances of ground water standards specified in Minnesota Rules, ch. 7060. These materials include, but are not limited to, detergents and cleaning agents, solvents, chemical dust suppressants, lubricants, fuels, drilling fluids, oils, fertilizers, explosives and blasting agents.

4. Stormwater Pollution Prevention Plan

- 4.1 The Permittee shall comply with its Stormwater Pollution Prevention Plan dated March 18, 1998 with revision dated March 8, 2002, and all subsequent revisions.

Chapter 6. Stormwater Management

4. Stormwater Pollution Prevention Plan

- 4.2 The Stormwater Pollution Prevention Plan shall include a description of appropriate Best Management Practices for protection of surface and ground water quality at the facility, and a schedule for implementing the practices. The Plan shall also include the procedures to be followed by designated staff employed by the Permittee to implement the plan.

5. Inspection and Maintenance

- 5.1 Site inspections shall be conducted regularly throughout the calendar year. During winter months, the inspections shall be conducted during non-frozen conditions. The purpose of inspections is to: 1) determine whether structural and non-structural BMPs require maintenance or changes, and 2) evaluate the completeness and accuracy of the Plan.

At least one inspection during a reporting period shall be conducted while stormwater is discharging from the facility. Inspections may be documented using an inspection form provided by the MPCA. A Storm Water Site Inspection Form is provided in the appendices section of this permit.

- 5.2 Inspections shall be documented and a copy of all documentation shall remain on the permitted site whenever Permittee staff are available on the site, and be available upon request. The inspection form developed for the General Storm Water Permit for Industrial Activity may be used for recording inspection results.

6. Application of Chemical Dust Suppressants

- 6.1 The Permittee shall maintain records of the dates, times, locations and amounts by volume of chemical dust suppressant application at the facility.
- 6.2 Chemical dust suppressants, if used, shall not be applied within 100 feet of the surface receiving waters identified in the 'Facility Description' section of this permit. These materials also shall not be applied within 100 feet of ditches that conduct surface flow to the surface receiving waters identified on Page 1 of this permit.
- 6.3 Chemical dust suppressants shall not be applied within 200 feet of any private water supply well nor within 1,000 feet of any public water supply well.
- 6.4 Chemical dust suppressants shall be applied in a manner that does not result in ponding or surface runoff. Chemical dust suppressants shall not be applied during rainfall or other wet surface conditions. Chemical dust suppressants shall not be applied to paved or other impervious areas.
- 6.5 The MPCA may, at its discretion, require chemical analysis of the chemical dust suppressants applied at the facility each year. The MPCA will notify the Permittee in writing if such an analysis is required. If required, this analysis shall be conducted during the same calendar year of application and shall include the parameters that may be determined by U.S. Environmental Protection Agency (EPA) Methods 624 and 625 which are described in 40 CFR Part 136, or other parameters as requested by the MPCA. If a dust suppressant is mixed with water or another solvent before application, the analysis shall be done on the mixture that is representative of the solution applied.

Chapter 7. Chemical Additives

1. General Requirements

- 1.1 The Permittee shall receive prior written approval from the MPCA before increasing the use of a chemical additive authorized by this permit, or using a chemical additive not authorized by this permit. "Chemical additive" includes processing reagents, water treatment products, cooling water additives, freeze conditioning agents, chemical dust suppressants, detergents and solvent cleaners used for equipment and maintenance cleaning, among other materials.

Chapter 7. Chemical Additives

1. General Requirements

- 1.2 The Permittee shall request approval for an increased or new use of a chemical additive 30 days before the proposed increased or new use.
- 1.3 This written request shall include the following information for the proposed additive:
 - a. Material Safety Data Sheet.
 - b. A complete product use and instruction label.
 - c. The commercial and chemical names of all ingredients.
 - d. Aquatic toxicity and human health or mammalian toxicity data including a carcinogenic, mutagenic or teratogenic concern or rating.
 - e. Environmental fate information including, but not limited to, persistence, half-life, intermediate breakdown products, and bioaccumulation data.
 - f. The proposed method, concentration, and average and maximum rates of use.
 - g. If applicable, the number of cycles before wastewater bleedoff.
 - h. If applicable, the ratio of makeup flow to discharge flow.
- 1.4 This permit may be modified to restrict the use or discharge of a chemical additive.

Chapter 8. Surface Discharge Stations

1. Requirements for Specific Stations

- 1.1 SD 001, SD 002, SD 003: Submit a monthly DMR monthly by 21 days after the end of each calendar month following permit issuance.
- 1.2 SD 012: Submit a monthly DMR monthly by 21 days after the end of each calendar month following issuance of major permit modification.

2. Sampling Location

- 2.1 Samples for Station SD001 shall be taken at the culvert flowing south under the railroad tracks towards Welcome Lake during a period of discharge. If a discharge from the culvert occurs at any time during the sampling quarter, a sample must be obtained for analysis.
- 2.2 Samples for Station SD002 shall be taken at the weir outfall at the old Highway 169 road crossing in the NW 1/4 of the NW 1/4 of Section 30, T57N, R21W.
- 2.3 Samples for Station SD003 shall be taken at the pipe outfall southwest of the Mesabi Chief Mine Pit.
- 2.4 Samples for SD012 shall be taken at the outfall of Perry Pit dewatering to O'Brien Creek.
- 2.5 Samples and measurements required by this permit shall be representative of the monitored activity.

3. Surface Discharges

- 3.1 Floating solids or visible foam shall not be discharged in other than trace amounts.
- 3.2 Oil or other substances shall not be discharged in amounts that create a visible color film.
- 3.3 The Permittee shall install and maintain outlet protection measures at the discharge stations to prevent erosion.

Chapter 8. Surface Discharge Stations

4. Winter Sampling Conditions

- 4.1 The Permittee shall sample flows at the designated monitoring stations including when this requires removing ice to sample the water. If the station is completely frozen throughout a designated sampling month, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR) and note the ice conditions in Comments on the DMR.

5. Discharge Monitoring Reports

- 5.1 The Permittee shall submit monitoring results for discharges of hydrostatic test waters in accordance with the limits and monitoring requirements for this station. If no discharge of pipeline water occurred during the previous year, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR).
- 5.2 The Permittee shall submit monitoring results for discharges in accordance with the limits and monitoring requirements for this station. If no discharge occurred during the reporting period, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR).

Chapter 9. Waste Stream Stations

1. Requirements for Specific Stations

- 1.1 WS 005, WS 011, WS 012: Submit a monthly DMR monthly by 21 days after the end of each calendar month following permit issuance.

2. Sampling Location

- 2.1 Samples for Stations WS005 shall be taken at weir station 901 following the chlorination tank.
- 2.2 Samples for Station WS011 shall be representative of the plant water to the scrubber system. Samples for Station WS012 shall be taken at a point representative of the treated scrubber blowdown flow to the tailings basin.

3. Sampling Frequency

- 3.1 Monitoring frequency for WS011 and WS012 shall be taken in accordance with the limits and monitoring requirements of this permit, including when coal is not being used as a fuel source in the Phase II indurating grate-kiln.

Chapter 10. Total Facility Requirements

1. General Requirements

Domestic Wastewater, non-POTW

- 1.1 The sanitary wastewater generated at the facility shall be disposed of:
 - a. Through the activated sludge sewage treatment plant at the facility monitored by station WS005;
 - b. To portable units, and then transported from the facility for proper disposal; and/or
 - c. To permitted septic tank-drainfield systems that treat sanitary wastewater only, at a rate of less than 10,000 gallons/day each.

Chapter 10. Total Facility Requirements

1. General Requirements

1.2 The Permittee shall prevent the introduction of the following to its domestic wastewater treatment system:

- a. pollutants which create a fire or explosion hazard, including any discharge with a flash point less than 60 degrees C (140 degrees F);
- b. pollutants which would cause corrosive structural damage, including any waste stream with a pH of less than 5.0;
- c. solid or viscous pollutants which would obstruct flow;
- d. heat that would inhibit biological activity, including any introduction of wastewater that would cause the temperature of the waste stream at the domestic wastewater treatment system to exceed 40 degrees C (104 degrees F);
- e. pollutants which produce toxic gases, vapors, or fumes that may endanger the health or safety of workers;
- f. non-contact cooling waters, unless there are no cost-effective alternatives; and
- g. hazardous wastes.

The flushing or disposal of solvents and petroleum products is prohibited. Employee training shall be provided on the proper disposal of solvents and petroleum products.

- 1.3 Any accumulation of solids in pump stations, distribution devices, valve boxes or drop boxes shall be considered septage.
- 1.4 Septage shall be disposed of according to state, federal and local requirements.
- 1.5 The Permittee is required to obtain a Sanitary Sewer Extension Permit from the MPCA before the start of construction of any addition, extension or replacement to the sanitary sewer.
- 1.6 The Permittee shall provide a Class C state certified operator who is in direct responsible charge of the operation, maintenance and testing functions required to ensure compliance with the terms and conditions of this permit.
- 1.7 If applicable, the Permittee shall provide the appropriate number of operators with a Type IV certification to be responsible for the land application of the biosolids generated by the facility.
- 1.8 If the Permittee chooses to meet operator certification requirements through a contractual agreement, the Permittee shall provide a copy of the contract to the MPCA. The contract shall include the certified operator's name, certificate number, company name if appropriate, and evidence that the operation is being adequately supervised by a properly certified operator.
- 1.9 The Permittee shall notify the MPCA within 30 days of a change in operator certification or contract status.

Domestic Biosolids

- 1.10 The Permittee shall provide the information needed to comply with the biosolids requirements of Minn. R. ch. 7041 to others who treat, store, prepare or use the biosolids.
- 1.11 The Permittee shall keep records of the information necessary to show compliance with pollutant concentrations and loadings, pathogen reduction requirements, vector attraction reduction requirements and management practices as specified in Minn. R. 7041.1600, subp. 3.

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.12 By December 31 following the end of each cropping year, the Permittee submit a Biosolids Annual Report for the land application of biosolids on a form provided by or approved by the MPCA. The report shall include the requirements in Minn. R. 7041.1700. The report shall state that biosolids were not land applied, how many total dry tons of biosolids were generated, and where they were transferred to.

Submit the report to:

Biosolids Coordinator
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-4194

General Requirements

- 1.13 Incorporation by Reference. The following applicable federal and state laws are incorporated by reference in this permit, are applicable to the Permittee, and are enforceable parts of this permit: 40 CFR pts. 122.41, 122.42, 136, 403 and 503; Minn. R. pts. 7001, 7041, 7045, 7050, 7060, and 7080; and Minn. Stat. Sec. 115 and 116.
- 1.14 Permittee Responsibility. The Permittee shall perform the actions or conduct the activity authorized by the permit in compliance with the conditions of the permit and, if required, in accordance with the plans and specifications approved by the Agency. (Minn. R. 7001.0150, subp. 3, item E)
- 1.15 Toxic Discharges Prohibited. Whether or not this permit includes effluent limitations for toxic pollutants, the Permittee shall not discharge a toxic pollutant except according to Code of Federal Regulations, Title 40, sections 400 to 460 and Minnesota Rules, parts 7050.0100 to 7050.0220 and 7052.0010 to 7052.0110 (applicable to toxic pollutants in the Lake Superior Basin) and any other applicable MPCA rules. (Minn. R. 7001.1090, subp.1, item A)
- 1.16 Nuisance Conditions Prohibited. The Permittee's discharge shall not cause any nuisance conditions including, but not limited to: floating solids, scum and visible oil film, acutely toxic conditions to aquatic life, or other adverse impact on the receiving water. (Minn. R. 7050.0210 subp. 2)
- 1.17 Property Rights. This permit does not convey a property right or an exclusive privilege. (Minn. R. 7001.0150, subp. 3, item C)
- 1.18 Liability Exemption. In issuing this permit, the state and the MPCA assume no responsibility for damage to persons, property, or the environment caused by the activities of the Permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under this permit. To the extent the state and the MPCA may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act. (Minn. R. 7001.0150, subp. 3, item O)
- 1.19 The MPCA's issuance of this permit does not obligate the MPCA to enforce local laws, rules, or plans beyond what is authorized by Minnesota Statutes. (Minn. R. 7001.0150, subp.3, item D)
- 1.20 Liabilities. The MPCA's issuance of this permit does not release the Permittee from any liability, penalty or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit. (Minn. R. 7001.0150, subp.3, item A)
- 1.21 The issuance of this permit does not prevent the future adoption by the MPCA of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the Permittee. (Minn. R. 7001.0150, subp.3, item B)
- 1.22 Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.23 Compliance with Other Rules and Statutes. The Permittee shall comply with all applicable air quality, solid waste, and hazardous waste statutes and rules in the operation and maintenance of the facility.
- 1.24 Inspection and Entry. When authorized by Minn. Stat. Sec. 115.04; 115B.17, subd. 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the Permittee to enter at reasonable times upon the property of the Permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit. (Minn. R. 7001.0150, subp. 3, item I)
- 1.25 Control Users. The Permittee shall regulate the users of its wastewater treatment facility so as to prevent the introduction of pollutants or materials that may result in the inhibition or disruption of the conveyance system, treatment facility or processes, or disposal system that would contribute to the violation of the conditions of this permit or any federal, state or local law or regulation.

Sampling

- 1.26 Representative Sampling. Samples and measurements required by this permit shall be conducted as specified in this permit and shall be representative of the discharge or monitored activity. (40 CFR 122.41 (j)(1))
- 1.27 Additional Sampling. If the Permittee monitors more frequently than required, the results and the frequency of monitoring shall be reported on the Discharge Monitoring Report (DMR) or another MPCA-approved form for that reporting period. (Minn. R. 7001.1090, subp. 1, item E)
- 1.28 Certified Laboratory. A laboratory certified by the Minnesota Department of Health shall conduct analyses required by this permit. Analyses of dissolved oxygen, pH, temperature and total residual oxidants (chlorine, bromine) do not need to be completed by a certified laboratory but shall comply with manufacturers specifications for equipment calibration and use. (Minn. Stat. Sec. 144.97 through 144.98 and Minn. R. 4740.2010 through 4740.2040)
- 1.29 Sample Preservation and Procedure. Sample preservation and test procedures for the analysis of pollutants shall conform to 40 CFR Part 136 and Minn. R. 7041.3200.
- 1.30 Equipment Calibration. All monitoring and analytical instruments used to monitor as required by this permit shall be calibrated and maintained at a frequency necessary to ensure accuracy. Flow monitoring equipment should be calibrated at least twice annually. For facilities with lift stations/pumps, calibration shall be completed at least twice annually. The Permittee shall maintain written records of all calibrations and maintenance for at least three years. (Minn. R. 7001.0150, subp. 2, items B and C)
- 1.31 Maintain Records. The Permittee shall keep the records required by this permit for at least three years, including any calculations, original recordings from automatic monitoring instruments, and laboratory sheets. The Permittee shall extend these record retention periods upon request of the MPCA. The Permittee shall maintain records for each sample and measurement. The records shall include the following information (Minn. R. 7001.0150, subp. 2, item C):
- a. The exact place, date, and time of the sample or measurement;
 - b. The date of analysis;
 - c. The name of the person who performed the sample collection, measurement, analysis, or calculation; and
 - d. The analytical techniques, procedures and methods used; and
 - e. The results of the analysis.

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.32 Completing Reports. The Permittee shall submit the results of the required sampling and monitoring activities on the forms provided, specified, or approved by the MPCA. The information shall be recorded in the specified areas on those forms and in the units specified. (Minn. R. 7001.1090, subp. 1, item D; Minn. R. 7001.0150, subp. 2, item B)

Required forms may include:

Discharge Monitoring Reports (DMRs)

The results of the monitoring and sampling required in this permit shall be recorded on the (grey and white) DMRs which, if required, will be provided by the MPCA. If no discharge occurred during the reporting period, the Permittee shall check the "No Discharge" box on the DMR. Note: Every open, white box must be filled-in on the DMR, unless no discharge occurred during the reporting period.

Supplemental Report Form (Supplementals)

Individual values for each sample and measurement must be recorded on the Supplementals which, if required, will be provided by the MPCA. Supplementals shall be submitted with the appropriate DMRs. You may design and use your own Supplemental, however it must be approved by the MPCA. Note: Required Summary information MUST also be recorded on the DMR. Summary information that is submitted ONLY on the Supplemental does not comply with the reporting requirements.

Other Reports and Forms

Other reports and information required by this permit shall be recorded on a form supplied or approved by the MPCA and submitted by the date specified in the permit.

- 1.33 Submitting Reports. DMRs and Supplementals shall be submitted to:

MPCA

Attn: Discharge Monitoring Reports
520 Lafayette Road North
St. Paul, Minnesota 55155-4194.

DMRs and Supplementals shall be postmarked by the 21st day of the month following the sampling period or as otherwise specified in this permit. A DMR shall be submitted for each required station even if no discharge occurred during the reporting period. (Minn. R. 7001.0150, subps. 2.B and 3.H)

Other reports required by this permit shall be postmarked by the date specified in the permit to:

MPCA

Attn: WQ Submittals Center
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

- 1.34 Incomplete or Incorrect Reports. The Permittee shall immediately submit an amended report or DMR to the MPCA upon discovery by the Permittee or notification by the MPCA that it has submitted an incomplete or incorrect report or DMR. The amended report or DMR shall contain the missing or corrected data along with a cover letter explaining the circumstances of the incomplete or incorrect report. (Minn. R. 7001.0150 subp. 3, item G)

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.35 Required Signatures. All DMRs, forms, reports, and other documents submitted to the MPCA shall be signed by the Permittee or the duly authorized representative of the Permittee. Minn. R. 7001.0150, subp. 2, item D. The person or persons that sign the DMRs, forms, reports or other documents must certify that he or she understands and complies with the certification requirements of Minn. R. 7001.0070 and 7001.0540, including the penalties for submitting false information. Technical documents, such as design drawings and specifications and engineering studies required to be submitted as part of a permit application or by permit conditions, must be certified by a registered professional engineer. (Minn. R. 7001.0540)
- 1.36 Detection Level. The Permittee shall report monitoring results below the reporting limit (RL) of a particular instrument as "<" the value of the RL. For example, if an instrument has a RL of 0.1 mg/L and a parameter is not detected at a value of 0.1 mg/L or greater, the concentration shall be reported as "<0.1 mg/L." "Non-detected," "undetected," "below detection limit," and "zero" are unacceptable reporting results, and are permit reporting violations.
- Where sample values are less than the level of detection and the permit requires reporting of an average, the Permittee shall calculate the average as follows:
- If one or more values are greater than the level of detection, substitute zero for all nondetectable values to use in the average calculation.
 - If all values are below the level of detection, report the averages as "<" the corresponding level of detection.
 - Where one or more sample values are less than the level of detection, and the permit requires reporting of a mass, usually expressed as kg/day, the Permittee shall substitute zero for all nondetectable values. (Minn. R. 7001.0150, subp. 2, item B)
- 1.37 Records. The Permittee shall, when requested by the Agency, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit. (Minn. R. 7001.0150, subp. 3, item H)
- 1.38 Confidential Information. Except for data determined to be confidential according to Minn. Stat. Sec. 116.075, subd. 2, all reports required by this permit shall be available for public inspection. Effluent data shall not be considered confidential. To request the Agency maintain data as confidential, the Permittee must follow Minn. R. 7000.1300.

Noncompliance and Enforcement

- 1.39 Subject to Enforcement Action and Penalties. Noncompliance with a term or condition of this permit subjects the Permittee to penalties provided by federal and state law set forth in section 309 of the Clean Water Act; United States Code, title 33, section 1319, as amended; and in Minn. Stat. Sec. 115.071 and 116.072, including monetary penalties, imprisonment, or both. (Minn. R. 7001.1090, subp. 1, item B)
- 1.40 Criminal Activity. The Permittee may not knowingly make a false statement, representation, or certification in a record or other document submitted to the Agency. A person who falsifies a report or document submitted to the Agency, or tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this permit is subject to criminal and civil penalties provided by federal and state law. (Minn. R. 7001.0150, subp.3, item G., 7001.1090, subps. 1, items G and H and Minn. Stat. Sec. 609.671)
- 1.41 Noncompliance Defense. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. (40 CFR 122.41(c))

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.42 Effluent Violations. If sampling by the Permittee indicates a violation of any discharge limitation specified in this permit, the Permittee shall immediately make every effort to verify the violation by collecting additional samples, if appropriate, investigate the cause of the violation, and take action to prevent future violations. Violations that are determined to pose a threat to human health or a drinking water supply, or represent a significant risk to the environment shall be immediately reported to the Minnesota Department of Public Safety Duty Officer at 1(800)422-0798 (toll free) or (651)649-5451 (metro area). In addition, you may also contact the MPCA during business hours. Otherwise the violations and the results of any additional sampling shall be recorded on the next appropriate DMR or report.
- 1.43 Unauthorized Releases of Wastewater Prohibited. Except for conditions specifically described in Minn. R. 7001.1090, subp. 1, items J and K, all unauthorized bypasses, overflows, discharges, spills, or other releases of wastewater or materials to the environment, whether intentional or not, are prohibited. However, the MPCA will consider the Permittee's compliance with permit requirements, frequency of release, quantity, type, location, and other relevant factors when determining appropriate action. (40 CFR 122.41 and Minn. Stat. Sec 115.061)
- 1.44 Discovery of a release. Upon discovery of a release, the Permittee shall:
 - a. Take all reasonable steps to end the release as soon as possible and minimize any potential adverse impacts to human health or the environment resulting from the release. Where a release enters a water of the state, the Permittee shall remove the spilled/discharged material after contacting the Minnesota Department of Natural Resources (DNR) and Wetland Conservation Act authority for that area regarding any additional remediation of impacts.
 - b. Immediately notify the Minnesota Department of Public Safety Duty Officer at 1(800)422-0798 (toll free) or (651)649-5451 (metro area). In addition, you may also contact the MPCA during business hours.
 - c. Collect representative samples of the release. The Permittee shall sample the release for parameters of concern immediately following discovery of the release. Additional samples shall be collected at least two times per week for as long as the release continues. Where there is reason to believe a pollutant other than those limited in the permit is present, the Permittee shall sample for that pollutant. In addition, Fecal Coliform Bacteria samples shall be collected where it is determined by the Permittee that the release contains or may contain sewage. If needed, appropriate sampling shall be determined in consultation with the MPCA.
 - d. The sampling results shall be included with the next DMR or Report unless otherwise specified through consultation with MPCA staff.

Chapter 10. Total Facility Requirements

I. General Requirements

1.45 Upset Defense. In the event of temporary noncompliance by the Permittee with an applicable effluent limitation resulting from an upset at the Permittee's facility due to factors beyond the control of the Permittee, the Permittee has an affirmative defense to an enforcement action brought by the Agency as a result of the noncompliance if the Permittee demonstrates by a preponderance of competent evidence:

- a. The specific cause of the upset;
- b. That the upset was unintentional;
- c. That the upset resulted from factors beyond the reasonable control of the Permittee and did not result from operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or increases in production which are beyond the design capability of the treatment facilities;
- d. That at the time of the upset the facility was being properly operated;
- e. That the Permittee properly notified the Commissioner of the upset in accordance with Minn. R. 7001.1090, subp. 1, item I; and
- f. That the Permittee implemented the remedial measures required by Minn. R. 7001.0150, subp. 3, item J.

Operation and Maintenance

- 1.46 The Permittee shall at all times properly operate and maintain the facilities and systems of treatment and control, and the appurtenances related to them which are installed or used by the Permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The Permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible Minn. R. 7001.0150, subp. 3, item F.
- 1.47 In the event of a reduction or loss of effective treatment of wastewater at the facility, the Permittee shall control production or curtail its discharges to the extent necessary to maintain compliance with the terms and conditions of this permit. The Permittee shall continue this control or curtailment until the wastewater treatment facility has been restored or until an alternative method of treatment is provided. (Minn. R. 7001.1090, subp. 1, item C)
- 1.48 Solids Management. The Permittee shall properly store, transport, and dispose of biosolids, septage, sediments, residual solids, filter backwash, screenings, oil, grease, and other substances so that pollutants do not enter surface waters or ground waters of the state. Solids should be disposed of in accordance with local, state and federal requirements. (40 CFR 503 and Minn. R. 7041 and applicable federal and state solid waste rules)
- 1.49 Scheduled Maintenance. The Permittee shall schedule maintenance of the treatment works during non-critical water quality periods to prevent degradation of water quality, except where emergency maintenance is required to prevent a condition that would be detrimental to water quality or human health. (Minn. R. 7001.0150, subp. 3, item F and Minn. R. 7001.0150, subp. 2, item B)
- 1.50 Control Tests. In-plant control tests shall be conducted at a frequency adequate to ensure compliance with the conditions of this permit. (Minn. R. 7001.0150, subp. 3, item F and Minn. R. 7001.0150, subp. 2, item B)

Changes to the Facility or Permit

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.51 **Permit Modifications.** No person required by statute or rule to obtain a permit may construct, install, modify, or operate the facility to be permitted, nor shall a person commence an activity for which a permit is required by statute or rule until the Agency has issued a written permit for the facility or activity. (Minn. R. 7001.0030)

Permittees that propose to make a change to the facility or discharge that requires a permit modification must follow Minn. R. 7001.0190. If the Permittee cannot determine whether a permit modification is needed, the Permittee must contact the MPCA prior to any action. It is recommended that the application for permit modification be submitted to the MPCA at least 180 days prior to the planned change.

- 1.52 **Construction.** No construction shall begin until the Permittee receives written approval of plans and specifications from the MPCA (Minn. Stat. Sec. 115.03(f)).

Plans, specifications and MPCA approval are not necessary when maintenance dictates the need for installation of new equipment, provided the equipment is the same design size and has the same design intent. For instance, a broken pipe, lift station pump, aerator, or blower can be replaced with the same design-sized equipment without MPCA approval.

If the proposed construction is not expressly authorized by this permit, it will require a permit modification. If the construction project requires an Environmental Assessment Worksheet under Minn. R. 4410, no construction shall begin until a negative declaration is issued and all approvals are received or implemented.

- 1.53 **Report Changes.** The Permittee shall give advance notice as soon as possible to the MPCA of any substantial changes in operational procedures, activities that may alter the nature or frequency of the discharge, and/or material factors that may affect compliance with the conditions of this permit.
- 1.54 **MPCA Initiated Permit Modification, Suspension, or Revocation.** The MPCA may modify or revoke and reissue this permit pursuant to Minn. R. 7001.0170. The MPCA may revoke without reissuance this permit pursuant to Minn. R. 7001.0180.
- 1.55 **Permit Transfer.** The permit is not transferable to any person without the express written approval of the Agency after compliance with the requirements of Minn. R. 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit. (Minn. R., 7001.0150, subp. 3, item N)
- 1.56 If the Permittee does not intend to continue the activities authorized by this permit after the expiration date of this permit, the Permittee shall notify the MPCA. The MPCA may require the Permittee to apply for reissuance or a major modification of this permit to authorize facility closure.
- 1.57 Facility closure that could result in a potential long-term water quality concern, such as the ongoing discharge of wastewater to surface or ground water, may require a permit modification. An application for permit modification shall be submitted to the MPCA for approval before the proposed change is implemented.
- 1.58 The Permittee is responsible for closure and postclosure care of the facility. The Permittee shall notify the MPCA of a significant reduction or cessation of operations described in this permit.
- 1.59 The MPCA may require the Permittee to establish financial assurance for closure, postclosure care and remedial action at the facility.

Chapter 10. Total Facility Requirements

1. General Requirements

- 1.60 Permit Reissuance. If the Permittee desires to continue permit coverage beyond the date of permit expiration, the Permittee shall submit an application for reissuance at least 180 days before permit expiration. If the Permittee does not intend to continue the activities authorized by this permit after the expiration date of this permit, the Permittee shall notify the MPCA in writing at least 180 days before permit expiration.

If the Permittee has submitted a timely application for permit reissuance, the Permittee may continue to conduct the activities authorized by this permit, in compliance with the requirements of this permit, until the MPCA takes final action on the application, unless the MPCA determines any of the following (Minn. R. 7001.0040 and 7001.0160):

- a. The Permittee is not in substantial compliance with the requirements of this permit, or with a stipulation agreement or compliance schedule designed to bring the Permittee into compliance with this permit;
- b. The MPCA, as a result of an action or failure to act by the Permittee, has been unable to take final action on the application on or before the expiration date of the permit;
- c. The Permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.



Minnesota Pollution Control Agency

Duluth Office

September 13, 2010

Mr. Scott Coleman
General Manager
US Steel - Minntac
PO Box 417
Mountain Iron, MN 55768-0417

RE: US Steel - Minntac Mining Area
NPDES/SDS Permit No. MN0052493
Compliance Evaluation Inspection

Dear Mr. Coleman:

Enclosed is the Compliance Evaluation Inspection (CEI) report that resulted from an inspection of the US Steel - Minntac Mining Area Wastewater Treatment Facility on August 3, 2010, by John Thomas of the Minnesota Pollution Control Agency (MPCA).

The CEI consisted of a visual inspection of the facility and a discussion with Tom Moe. In addition, there was a review of the monthly Discharge Monitoring Reports (DMRs) for the time period from February 1, 2008, to June 2010. Based on the results of the CEI, several violations of the terms and conditions set forth in the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) permit were noted. Please see the attached Compliance Evaluation Inspection Report for further detail.

If you have questions, please contact me at 218-302-6616 or 800-657-3864.

Sincerely,

John Thomas
Pollution Control Specialist Senior
Compliance and Enforcement Section
Industrial Division

JT:slm

Enclosure

cc: Tom Moe, Minntac, Mountain Iron
Mary DeZurik, MPCA, St. Paul, (w/all enclosures)



**MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY POINT SOURCE PROGRAM
Compliance Evaluation Inspection Report**

FACILITY INFORMATION:

Facility Name: US Steel - Minnetac Mining Area
Permit Number: MN0052493
Address: County Road 102, Mountain Iron, MN 55768
Permit Expiration Date: November 30, 2008
Facility Design Flow: 33.2 mgd (MD)
Major Minor Classification: Minor
Type of Flow: Industrial
Plant Class: C
Land Application Type: N/A
24 Hour Contact: Mr. Thomas A Moe, Environmental Control Engineer
Phone: 218-749-7485

GEOGRAPHIC INFORMATION:

MPCA Region: Northeast
County: St. Louis
Basin: Rainy River
Major Watershed: Vermilion River (Rainy River)
Receiving Water: East Branch of the West Two River (2B,3B,4A,4B,5,6) to Unnamed wetlands (2D,3D,4C,5,6)

THOSE PRESENT DURING THE INSPECTION:

<u>Facility Representatives</u>	<u>Title</u>
Tom Moe	Environmental Control Engineer
<u>MPCA Representatives</u>	<u>Title</u>
John Thomas	Pollution Control Specialist, Sr.

INSPECTION INFORMATION:

Inspection Date: August 3, 2010
Inspection Type: CEI, Industrial without Sampling
Inspection Category: State

FACILITY COMPONENTS:

Three subsurface discharging wastewater treatment systems each composed of a flow equalization tank, an extended aeration tank, clarifier and drainfield.

WASTE CONTRIBUTORS:

Domestic wastewater is discharged to the subsurface discharge wastewater treatment system.

TREATMENT PLANT OPERATORS:

<u>Name</u>	<u>Phone</u>	<u>Class</u>	<u>Expiration</u>
Tom Smith		Class C	5/1/2012

INSPECTION SUMMARY

A Compliance Evaluation Inspection was conducted on August 3, 2010, by John Thomas of the MPCA to determine the facility's compliance with the terms and conditions of its NPDES/SDS Permit. The following is a summary of the findings and comments resulting from that inspection.

Areas of Concern or General Comments:

- Chapter 7 of the Permit pertains to the subsurface disposal system requirements. All systems were fenced, drainfields had been mowed and vegetative cover appeared in good condition. The permit requires that a Class C certified operator oversee the three systems. Tom Smith is a Class C operator, with a certification that expires on May 1, 2012.
- Biosolids disposal from the above described wastewater treatment systems are reported on the Biosolids Annual Report in which biosolids from the domestic wastewater treatment system covered by permit No. MN0050504. This reporting complies with the requirements of Chapter 8 Part 4.1 of the mine area permit. Biosolids are transferred to the City of Mountain Iron wastewater treatment facility.
- DMRs were submitted complete and on-time during the review period of February 2008 through June 2010.
- Union employees obtain the samples required at the permit-identified monitoring locations. Except for pH, temperature and specific conductance, all samples are analyzed at Northeast Technical Services, a MDH certified laboratory.
- During the inspection, only SD001 and SD003 pit dewatering locations were being discharged. The outfalls at these locations had adequate erosion protection to prevent scour.
- The current Permit has monitoring requirements with no limits at surface discharge stations for the following parameters: hardness, specific conductance and total sulfate. During the review period of February 2008 – June 2010, water quality standards were likely exceeded in receiving waters resulting from discharges at SD001 (hardness, specific conductance) and SD004 (hardness, specific conductance). Exceedences of the total sulfate standard (when wild rice is present) may or may not have occurred at SD001, SD003 and SD004 if the downstream receiving waters support the production of wild rice. All effluent data will be evaluated during the permit reissuance process and this evaluation may result in limits for hardness and specific conductance and, if applicable, total sulfate.

Alleged Violations/Corrective Actions:

1. **Violation:** NPDES/SDS Permit No. MN0052493 Limits and Monitoring Requirements section indicates effluent limits for each monitoring station. The following table indicates effluent limits that were violated:

Station	Parameter	Effluent Limit	Reported Value	Reporting Period
SD003	TSS	30 mg/l CalMoMax	42 mg/l	12/08
WS002	Flow	0.02 mgd InstantMax	0.031 mgd	6/10
WS003	Flow	0.017 mgd InstantMax	0.079 mgd	6/10

Corrective Action: The cover letters submitted with the December 2008 and June 2010 DMRs indicated causes or likely causes for the violations in all instances as well as corrective actions to prevent future violations. No further response is required at this time.

2. **Violation:** NPDES/SDS Permit No. MN0052493 Chapter 9 Part 5, which states:

5.1 If an intervention limit is exceeded, the Permittee shall:

- Sample the monitoring station again within two days of receiving sample results if the previous samples at the facility did not exceed the intervention limit;
- evaluate the significance and the cause of the intervention limit having been exceeded;
- evaluate the need for immediate corrective action to prevent pollutant levels from exceeding the intervention limits again; and
- evaluate the need for changes in monitoring, including but not limited to, increasing sampling frequencies, changing the characteristics monitored, installing additional monitoring stations, and reducing pollutant loadings.

5.2 The Permittee shall submit an Intervention Limits Exceeded Report with the DMR that identifies when an intervention limit has been exceeded.

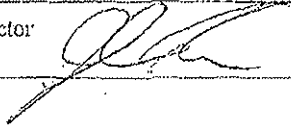
5.3 This report shall describe the evaluations and conclusions, and the schedule of actions taken or planned to prevent the intervention limits from being exceeded.

During the review period of February 1, 2008 – June 2010 there was one exceedence of intervention limits - at GW002 the InstMax intervention limit for total chloride is 250 mg/l, the monitoring result for July 2008 was reported as 304 mg/l. In response to this exceedence, the Permittee failed:

- to conduct additional monitoring for chloride at GW002 within two days of receiving the report of the intervention limit exceedence,
- to evaluate the significance of the exceedence,

3. to evaluate the need for immediate corrective actions to prevent further exceedence,
4. to evaluate the need to change monitoring,
5. to submit an Intervention Limits Exceeded Report.

Corrective Action: Since this was a single occurrence of an intervention limit exceedence for this parameter at this location that has not re-occurred in the past two years, no further response is required at this time. Other chloride monitoring results at GW002 have been well below the intervention limit. The Permittee is advised that compliance with requirements of Part 5 of the Permit is expected if/when intervention limit exceedences occur in the future.

Signature of Inspector 	Date 9/13/10
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Comments, questions and submittals should be addressed to:

John Thomas
Pollution Control Specialist, Sr.
Minnesota Pollution Control Agency
525 Lake Avenue South, Suite 400
Duluth, Minnesota 55802
218-302-6616