

September 22, 2025

Minnesota Pollution Control Agency
c/o Stephanie M. Handeland
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<https://mpca.commentinput.com/?id=BsGkbZQAt>

Re: NPDES/SDS Permits MN0031879 & MN0055948 for U.S. Steel – Keetac (Mine/Mill & Tailings Basin); MPCA’s Preliminary Denial of U.S. Steel Application for Variance From Wild Rice Sulfate Standard for Wild Rice Waters

Dear Ms. Stephanie M. Handeland:

On behalf of Northeastern Minnesotans for Wilderness, thank you for the opportunity to comment on the draft National Pollutant Discharge Elimination System (“NPDES”)/State Discharge System (“SDS”) permits for U.S. Steel Corporation’s (“USS”) Keetac operation, and USS’ application for a variance from the sulfate standard for wild rice waters. Northeastern Minnesotans for Wilderness (“NMW”) is a 501(c)(3) non-profit corporation founded in Ely by residents of northeastern Minnesota. Since 1996, NMW has worked to protect the Boundary Waters Canoe Area Wilderness (“Boundary Waters” or “the Wilderness”), Voyageurs National Park, and the larger Quetico-Superior region, and to foster broad appreciation of and support for the preservation of wilderness and wild places. Since 2013, NMW has focused substantial resources in efforts to achieve permanent protection of the Rainy River-Headwaters watershed – also known as the Boundary Waters watershed – from sulfide-ore copper mining and since 2020 has extended its efforts to documenting, tracking, and eliminating to the maximum extent possible industrial-sourced sulfate contamination of otherwise low sulfate waters in the Rainy River-Headwaters watershed.

NMW has a strong interest in seeing the MPCA use its ample authorities under the Federal Water Pollution Control Act and Minnesota law to control mining pollution including sulfate as vigorously as possible. The NPDES/SDS permits and variance application for USS’ Keetac operation (“USS-Keetac”) is a critical test case for the MPCA to ensure the decisive role of science, data, and reasoned decision-making in the issuance of NPDES/SDS permits and variances, and for the rule of law in Minnesota.

NMW applauds the Minnesota Pollution Control Agency’s (“MPCA”) action to enforce the sulfate standard for protection of wild rice waters (hereinafter, “sulfate standard”) by including enforceable numeric limits surface discharges specified in the two NPDES/SDS permits (MN0031879, MN0055948) for USS-Keetac. NMW strongly supports the MPCA’s preliminary determination to deny USS’ application for a variance from the sulfate standard for wild rice waters, and urges MPCA to issue a final decision denying USS’ application for a variance.

NMW encourages MPCA to review USS' SEC filings, such as its 2024 10-K, and include those filings in the decision record. The USS 2024 10-K's contents support the MPCA's determination that USS can afford construction and operation of water treatment necessary to comply with state and federal standards. In addition, the 10-K's lack of any assertion or disclosure to investors, along the lines that state requirement of USS to comply with the 14 mg/L (average) numeric limit on sulfate and denial of a variance would result in closure or long-term idling of USS-Keetac, likewise undercuts arguments that if USS is not given a variance but is forced to control sulfate, then USS-Keetac would be idled or closed, leading to substantial and widespread economic and social impacts. It is noteworthy that, at least in the hearing in Virginia on Sept. 3rd, NMW heard commenters of all stripes except USS itself make these fear-based arguments. SEC filings such as USS' 2024 10-K carry weight because material omissions and misstatements in companies' SEC filings are punishable as felonies for which top company executives are responsible, whereas NMW is not aware that misleading labor or local elected officials violates any state law or carries any penalties. MPCA should weigh the evidence before it accordingly.

1. The 10 mg/L sulfate standard is supported by the findings of published, high-quality scientific studies conducted in Minnesota, and is reasonable, necessary, and rationally related to the protection of wild rice waters.

The 10 mg/L sulfate standard for wild rice waters has been law in Minnesota since 1973. It has been federal law since it was approved by the U.S. EPA in 1975.

In 2011, the Minnesota legislature directed the MPCA to re-evaluate the 10 mg/L standard, and appropriated state funds for a multi-year high-quality scientific study, sometimes called the Wild Rice Sulfate Standard Study (hereinafter, "sulfate study"). The sulfate study's early and final results gave MPCA information necessary to form "a much better understanding of the relationship between wild rice presence and absence, sulfate in the water column, and sulfide and iron in sediment porewater." See **Exh. 1**. MPCA. Wild Rice Sulfate Standard – Summary of Findings and Preliminary Recommendations, Legislative Briefing Document; February, 2014 ("Feb. 2014 briefing document").

In February of 2014, the MPCA, based on preliminary findings from research conducted by research scientists at the University of Minnesota, the MPCA, and other institutions, formalized its preliminary conclusions and recommendations. The first preliminary conclusion listed in the Feb. 2014 briefing document is, "The 10 mg/L standard is needed and reasonable to protect wild rice production from sulfate-driven sulfide toxicity." The second preliminary conclusion listed is, "The 10 mg/L wild rice sulfate standard should continue to apply to Minnesota wild rice lakes and streams. *Id.*

After briefing legislators, and one day before the planned release of the MPCA research scientists' findings, political blowback from Iron Range legislators caused MPCA leadership at the time to pause its release of its research scientists' preliminary conclusions based on data gathered in the sulfate study research. Ample evidence of this as a political rather than a scientific decision is compiled, explained, and available for review on the pages of

WaterLegacy’s website devoted to this topic (<https://waterlegacy.org/wild-rice-and-sulfate-rulemaking/>; see **Exh. 2**).

In June of 2014 the MPCA announced it would investigate an equation-based sulfate standard to replace the 10 mg/L numeric standard. The equation would dictate a standard allowing more – sometimes substantially more – than 10 mg/L sulfate in waters whose sediments were high in extractable iron, and a standard allowing less – sometimes substantially less – than 10 mg/L sulfate in waters whose sediments were low in extractable iron, on the basis of evidence that sediment iron scavenges sulfide. Implicit in MPCA’s proposal was the theory that by scavenging sulfide as iron-sulfide in the sediment, extractable iron protected wild rice plants from the harmful effects of sulfide toxicity in the rooting zone. Note that this MPCA interpretation of extractable iron (sediment porewater iron) as protective of wild rice was disputed by various parties, including some of the key scientists involved in the sulfate study, as unsupported by the scientific evidence.

The extensive research conducted by the state supported sulfate study culminated in at least five peer-reviewed scientific papers addressing the bioactivity and aquatic chemistry dynamics of sulfate being published in high-impact scientific journals in 2017. See:

- Myrbo, A., Swain, E. B., Engstrom, D. R., Coleman Wasik, J., Brenner, J., Dykhuizen Shore, M., Peters, E. B., and G. Blaha. (2017). Sulfide generated by sulfate reduction is a primary controller of the occurrence of wild rice (*Zizania palustris*) in shallow aquatic ecosystems. *J. Geophys. Res.: Biogeosciences*, 122. <https://doi.org/10.1002/2017JG003787> (“Myrbo A., et al. (2017a)”); **Exh. 3**);
- Myrbo, A., Swain, E. B., Johnson, N. W., Engstrom, D. R., Pastor, J., Dewey, B., Monson, P., Brenner, J., Dykhuizen Shore, M., and E. B. Peters. (2017). Increase in nutrients, mercury, and methylmercury as a consequence of elevated sulfate reduction to sulfide in experimental wetland mesocosms. *J. Geophys. Res.: Biogeosciences*, 122. <https://doi.org/10.1002/2017JG003788> (“Myrbo, et al. (2017b)”); **Exh. 4**);
- Pastor, J., Dewey, B., Johnson, N. W., Swain, E. B., Monson, P., Peters, E. B., and A. Myrbo. (2017). Effects of sulfate and sulfide on the life cycle of *Zizania palustris* in hydroponic and mesocosm experiments. *J. Ecological Applications*: 27 (1) 321-336. <https://doi.org/10.1002/eap.1452> (“Pastor, et al. (2017)”); **Exh. 5**);
- Pollman, C. D., Swain, E. B., Bael, D., Myrbo, A., Monson, P., and M. Dykhuizen Shore. (2017). The Evolution of Sulfide in Shallow Aquatic Ecosystem Sediments: An Analysis of the Roles of Sulfate, Organic Carbon, and Iron and Feedback Constraints Using Structural Equation Modeling. *J. Geophys. Res.: Biogeosciences*, 122. <https://doi.org/10.1002/2017JG003785> (“Pollman, et al. (2017)”); **Exh. 6**); and
- Ng, G.-H. C., Yourd, A. R., Johnson, N. W., and A. E. Myrbo. (2017). Modeling hydrologic controls on sulfur processes in sulfate-impacted wetland and stream sediments. *J. Geophys. Res.: Biogeosciences*, 122. <https://doi.org/10.1002/2017JG003822> (“Ng, et al. (2017)”); **Exh. 7**).

These and other subsequent papers document sulfate-driven sulfide toxicity to wild rice, and support many of the MPCA’s key understandings derived from the sulfate study’s preliminary results as reflected in Feb. 2014 briefing document. These include the conclusions that: sulfide is toxic to wild rice; sulfate is converted by sulfate-reducing bacteria in anaerobic sediment to

sulfide in the rooting zone of wild rice; sulfide formation in the sediment is driven by the amount of sulfate in the water column; iron in sediment scavenges sulfide to form iron-sulfide, thus precipitating the affected pore water sulfide; and that pore water sulfide is a function of surface water sulfate, sediment iron and sediment organic matter.

In 2017 the MPCA proposed replacing the 10 mg/L standard with an equation-based standard. In the technical support document (*See* MPCA. August, 2017. TSD: Refinements to Minnesota's Sulfate Water Quality Standard to Protect Wild Rice. ("2017 TSD"); **Exh. 8**), MPCA explained that a comparison of the proposed equation-based standard to fixed standards based on ratio of Type 1 to Type 2 errors (Type 1 errors indicating instances in which the fixed standard was found to be overly protective, and Type 2 errors indicating instances in which the fixed standard was found to be under-protective of wild rice) showed that if there is to be a fixed standard, then fixing it at 10 mg/L would produce both the lowest error rate (the sum of Type 1 and Type 2 errors) possible, and that it would be most balanced (16% of instances in the dataset would show 10 mg/L to be overprotective (a Type 1 error) and 16% of instances in the dataset showed 10 mg/L to be under-protective (a Type 2 error). Thus, the MPCA asserted in 2017, based on the modern dataset produced by a highly-respected team of scientists conducting the multi-year sulfate study with state financial and other backing, that if there is to be a fixed concentration sulfate standard to protect wild rice, then the 10 mg/L sulfate standard is already correctly and reasonably set at the most ideal and balanced concentration level possible to achieve the standard's purpose. *Id.* at p. 48.

Nonetheless, MPCA proposed the equation-based standard as preferable to the fixed sulfate standard because the equation-based standard was predicted to achieve an overall error rate (a smaller summed % of Type 1 + Type 2 errors) about half the error rate of the fixed standard. This equation, however, was focused on calculated sediment pore water sulfide concentrations, which are shown to be lower in the presence of sufficient sediment iron. And the MPCA's choice of the equation-based standard was predicated on the theory that precipitation of porewater sulfide to iron-sulfide prevented harm to wild rice.

The equation-based standard was rejected by the Administrative Law Judge ("ALJ") and the rejection was affirmed by Minnesota's Chief ALJ, principally on the basis that because MPCA was proposing to rescind the 10 mg/L sulfate standard at a time when almost all of the state's wild rice waters lacked the surface water and sediment analytical data necessary to plug into the equation-based standard, and thus MPCA proposed rescinding a perfectly clear and understandable fixed standard with an unconstitutionally vague sulfate standard. In short, the MPCA's bid to replace the fixed standard with the equation-based standard was rejected because it was unclear to all concerned (permittees, interested citizens, and the MPCA) – and likely would remain unclear for at least a decade or more – what the sulfate standard would be for any given wild rice water, and what permit limits any given industrial discharger would have to meet.

Even had the sulfate standard rule revision proposed by MPCA not been rejected by the Minnesota Chief ALJ and then abandoned by the agency, additional peer-reviewed science published since 2017 has undercut the MPCA's hypothesis that high sediment iron is protective of wild rice in high-sulfate waters. Instead, mesocosm studies demonstrate that in high-sulfate waters with high sediment iron levels, while precipitates sulfide as less reactive iron-sulfide, the

iron-sulfide precipitating in the rooting zone forms a plaque on wild rice roots, inhibiting or halting uptake of nitrogen by the plants. Those plants then produced fewer and lighter seeds containing less nitrogen than plants growing in lower-sulfate water, and that continuation of high-sulfate conditions exerted a downward on wild rice across multi-year population cycles. At high-enough sulfate concentrations, the downward pressure led to local extirpation of wild rice populations within six multi-year population cycles. (See, e.g., LaFond-Hudson, S., Johnson, N. W., Pastor, J., and B. Dewey. Sulfur Geochemistry Destabilizes Population Oscillations of Wild Rice (*Zizania palustris*). *J. Geophys. Res.- Biogeosciences*, 127 (2022) <https://doi.org/10.1029/2022JG006809> (“LaFond-Hudson, et al. (2022)”); **Exh. 9**). In short, the MPCA’s hypothesis that high sediment iron is protective of wild rice populations in high-sulfate waters, such as those downstream from taconite facilities, is not supported by scientific papers and data on the topic published since 2017.

2. NMW supports issuance of NPDES/SDS Permits MN0031879 and MN0055948 with monitoring requirements and enforceable numeric limits on sulfate concentrations (average and maximum) at all documentable points of surface discharge and seepage from the USS-Keetac areas and facilities.

As required by 40 CFR 122.44(l), MPCA has retained enforceable numeric limits on sulfate at the specified surface discharges in the NPDES/SDS permits for USS-Keetac.¹ These include MN0031879-SD-002, SD-003, and SD-012, and MN0055948-SD-001, SD-005, and SD-009. There is no sulfate limit proposed for MN0031879-SD-001. NMW encourages MPCA to include a numeric limit on sulfate at MN0031879-SD-001.

NMW supports the permits’ requirement to monitor sulfate twice monthly at most surface discharges -- those designated as such in the draft permits. Twice-monthly monitoring is required at MN0031879-SD-002, SD-003, SD-012, and at MN0055948-SD-001, SD-005, and SD-009, but not at MN0031879-SD-001, where monitoring is required only on a quarterly basis. NMW encourages MPCA to apply consistent twice-monthly monitoring requirements to all designated surface discharges, including MN0031879-SD-001.

There are at least two important ways in which the NPDES/SDS permits must be tightened. First, maximum permitted discharge flow volume limits should be included for all specified

¹ Limits cannot be adjusted any higher proposed based on 40 CFR 122.44(l), nor should they be. Depending on biotic sampling for mercury in fish tissue (“Hg_F”) there may be strong scientific cause for the numeric limits on sulfate to be adjusted lower. Published scientific journal articles and the best existing statistical analysis of surface water parameters (sulfate, DOC, Hg, and MeHg) shows that in waters with plenty of extractable iron in the sediment, methyl-mercury formation increases linearly with increases in sulfate, suggesting that by scavenging sulfide, high sediment iron leads to more Hg_F as surface water sulfate concentrations increase. See Myrbo, et al. (2017b), **Exh. 4**. Many waters downstream from USS-Keetac are listed as impaired for Hg_F, including O’Brien Lake (WID 31-0032-02) and Swan Lake (WID 31-0067-02), which also are wild rice waters. NMW encourages MPCA to conduct or require permittee to conduct a simultaneous annual sampling effort during each year of the permits’ five-year term, including at a minimum water quality sampling for sulfate, dissolved organic carbon, filtered mercury and methylmercury, and unfiltered mercury and methylmercury; sediment sampling for total organic carbon, extractable iron, and acid-volatile sulfide; and biotic sampling of fish species for mercury loads in the following waters: O’Brien Creek, Welcome Creek, Hay Creek, West Swan River, Hay Lake, Little O’Brien Lake, Reservoir 2, Reservoir 2 North, and Reservoir 6.

surface discharges. In the alternative, each specified surface discharge should include a maximum sulfate load limit. Second, the list of surface discharges subject to flow and sulfate monitoring must be expanded to encompass all obvious pools and seeps on the periphery of the USS-Keetac tailings pile.

A. The NPDES/SDS permits lack numeric limits on discharge flow volumes and hence lack computable pollutant load limits for all pollutants at all specified surface discharge locations. Without either load limits or maximum discharge volume limits, how can the NPDES/SDS permits serve as a basis for future determinations of compliance with antidegradation requirements, and isn't MPCA inviting water diversion manipulations rather than pollution reduction to achieve compliance with numeric concentration limits?

NMW understands that MPCA determined prior to issuance of the 2011 permits that these numeric limits are necessary to address the impairment of wild rice waters downstream, including in Hay Lake. MPCA has not, however, conducted a Total Maximum Daily Load (“TMDL”) study for Hay Lake, and does not intend to prepare a TMDL study before the year 2033 for Hay Lake or any other wild rice water listed as impaired for sulfate. *See* MPCA. April 2024. EPA-Approved Final 2024 Impaired Waters List_wq-iw1-81, **Exh. 10**; *and see* MPCA. April 2024. Minnesota's TMDL Studies Prioritization Framework, 2022-2032, **Exh. 11**.

Without a TMDL calculation, MPCA has not apportioned the TMDL across all NPDES/SDS permitted discharges. NMW has not conducted an independent review of the assumptions and calculations upon which MPCA's determination is based. Until NMW has arranged an independent reviewed and understands those assumptions and calculations it reserves judgment as to whether the 14 mg/L calendar month average limit on specified surface discharges is sufficiently stringent, and whether the current list of specified discharges is sufficiently inclusive of total USS-Keetac discharge.

B. MPCA should strengthen the NPDES/SDS permits by ensuring that all documentable points of discharge and seepage from the mine properties and to waters of the state are subject to sulfate and flow volume monitoring requirements, and enforceable numeric limits on sulfate discharges.

NMW supports the permits' requirement to monitor sulfate twice monthly at most surface discharges -- those designated as such in the draft permits (MN0031879-SD-002, SD-003, SD-012, and at MN0055948-SD-001, SD-005, and SD-009). Yet there are many actual points of discharge that are not among the few surface discharges specified with an SD number in the permits as drafted by MPCA.

It is evident that the permits as written, particularly MN0055948, would allow MPCA and USS-Keetac to avoid the measurement of discharge volumes and pollutant concentrations, and therefore loads, from de facto surface discharges originating from the USS-Keetac properties covered by the two permits. The Public Notice of intent to reissue the USS-Keetac Mining Area NPDES/SDS Wastewater Permit, MN0031879, states in pertinent part, on page 2:

A 2020 Supreme Court Decision in County of Maui v. Hawaii Wildlife Fund, 140 S. CT. 1462 (2020), (Maui) requires that regulators consider whether discharges of wastewater from a facility to groundwater are functionally equivalent to direct discharges of wastewater to surface water. This permit does not authorize a functionally equivalent discharge from tailings basin seepage to surface water.

It appears evident that substantial areas of waste rock stockpiles or other mined materials abut much of the eastern margin of O'Brien Creek's headwaters reach. Surely by omitting any mention of or requirement to monitor and control sulfate and other pollutants entering O'Brien Creek from seeps and flowages emerging from the toe or margin of this heavily mining-influenced area, the permit MN0031879 is tacitly authorizing the functional equivalent of discharge from USS-Keetac's active wasterock disposal areas, even if not from the tailings basin. This omission should corrected, and permittee should be required to monitor flow volumes and pollutant concentrations in the pools and seeps entering O'Brien Creek. There are many such areas visible in satellite imagery along O'Brien Creek (reach 07010103-607).

The equivalent Public Notice of intent to reissue the USS-Keetac Tailings Basin Area NPDES/SDS Wastewater Permit, MN0055948, states in pertinent part, on page 7:

A 2020 Supreme Court Decision in County of Maui v. Hawaii Wildlife Fund, 140 S. CT. 1462 (2020), (Maui) requires that regulators consider whether discharges of wastewater from a facility to groundwater are functionally equivalent to direct discharges of wastewater to surface water. At this time, there is not sufficient information to make a functional equivalent determination at the Keetac tailings basin. This permit requires the Permittee to conduct additional sampling at various surface water and internal waste stream monitoring locations to determine whether or not there is a functionally equivalent discharge from the tailings basin. This permit does not authorize a functionally equivalent discharge from tailings basin seepage to surface water. If it is determined a functionally equivalent discharge from the tailings basin exists, the permit will be modified or reissued and the functionally equivalent discharge will be regulated under the modified or reissued permit.

The five years since Maui was handed down is sufficient time to have required permittee to sample in all seeps, pools, and flowages ringing the Keetac tailings pile, and for MPCA to have sampled the same waters as well as the tailings basin pools, and yet a review of MPCA's surface water data collection makes clear that no such sampling has been required or conducted. This is a missed opportunity and five years of data collection wasted. While it is good that MPCA is requiring monthly monitoring at SW-005 and SW-006, both of which appear to be located within 100-200 yards of the Keetac tailings pile perimeter, those two monitoring sites are only a subset of the seeps, pools, and flowages visible in satellite imagery and traceable through wetlands to flowing waters of the state. Additional sites of pooling and flowing water at the toe of the Keetac tailings dam, which MPCA must require the permittee to monitor in the same fashion as SW-005 and SW-006, are visible at the following Lat./Lon. coordinates:

- 47.337248, -93.075418
- 47.346613, -93.094143 and

- 47.348477, 93.094386

NMW recommends that SW-006 be effectively paired with at least one additional surface water monitoring location at approximately 47.33642, -93.099983, a site located along the northeast side of the unnamed creek 07010103-706, which flows from reservoir 2 to Hay Creek, as it appears likely that the water backing up at those coordinates is directly downgradient from SW-006 and would help establish a connection to the unnamed creek (to Hay Creek). Likewise, NMW recommends that most or all of the excavated pools clustered around MN0055948-SD-006 (which surface discharge, oddly, though it appears clearly in the MPCA's surface water data access application, is not mentioned in the draft NPDES/SDS Permit MN0055948) be added to the list of waters where permittee must monitor and report on a monthly basis. These pools appear to be largely interconnected and it appears that flowages from these pools are traceable to Hay Creek's headwaters or to the unnamed tributary east of and tributary to Hay Creek. Sampling these pools will provide data for comparison to SW monitoring sites SW-008, SW-005, and SW-002.

NMW is of the view that these sites should be described with "local names" that are accurate to the setting of these seeps, pools, and flowages. NMW suggests "unnamed pool or flowage number [X] tributary to [water X] originating at toe of Keetac tailings dam," or some equivalent.

NMW urges that discharge from these pools and flowages be monitored, where possible by installation of weirs equipped with continuous flow monitoring dataloggers, as that will better capture flows over time and be less likely to underrepresent flows and loads emerging from the USS-Keetac tailings pile.

3. NMW agrees with and supports MPCA's preliminary determination requiring denial of USS' application for a variance from the sulfate standard.

A. The MPCA correctly determined that USS does not qualify for a variance under either of the grounds upon which it applied.

MPCA correctly determined that USS does not qualify for a variance under either of the grounds on which it applied. Since the MPCA's preliminary determination to deny USS' variance application, conditions for the U.S. steel industry and for USS, in particular, have improved markedly. U.S. steel makers are now benefitting from U.S. tariffs on imported steel, and USS has been taken over by Nippon Steel Corp., which has promised not to shutter plants but to invest some \$11 Billion in USS facilities in coming years. Moreover, the federal government now holds a golden share in USS, entitling it to block the company from halting work at its facilities. In fact, it did so just last week, as reported in Bloomberg News. *See* 2025-09-19. Bloomberg News. Trump officials blocked US Steel from stopping work at plant; **Exh. 12**.

B. USS' SEC filings make clear that USS can afford to and does spend substantial amounts on environmental compliance; USS does not assert in its SEC filings that enforcement of the sulfate standard through limits in its NPDES/SDS

permits would result in Keetac being closed, which it likely would have to have disclosed, were it the case.

The USS 2024 10-K filing is relevant to the MPCA's determination to deny USS application for a variance for several reasons. See 2024 10-K of United States Steel Corp.; **Exh. 13**.

First, it includes boilerplate assertions of good environmental stewardship and corporate citizenship, following the law, and recitation of what USS spends and has spent in the three years leading up to the filing on environmental compliance and control. It also shows annual expenditures on other things, such as stock options, which presumably are reserved for upper management.

Second, it does mention at pp. 20-21 USS' Minnesota operations generally and Keetac specifically, including MPCA's denial of USS-Keetac's application for a site-specific standard to avoid the 14 mg/L numeric limit in its draft NPDES/SDS permit. It does state at the bottom of p. 32 that, "... the Company may need to make significant capital and operating expenditures to ... control water discharges or to perform certain corrective actions to meet the conditions of the permits issued pursuant to applicable environmental laws and regulations."

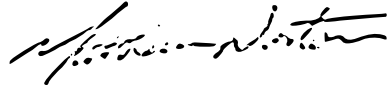
In the same section there is a selective recitation of the history of the sulfate standard. For example, the company notes that the sulfate standard has not been revised, but does not note that the mining industry generally (along with almost all commenting interest groups and others) opposed the MPCA's proposed revision of the numeric water quality standard to an equation-based standard. The company recites how EPA "recognized" the conflict between state laws forbidding application/enforcement of the sulfate standard, but does not state that the EPA disapproved the proposed changes to Minnesota's Clean Water Act implementation program that those state laws represented, and omits the obvious follow-up, which is that federal law cannot be nullified by state law.

NMW has found no statement in the 10-K where USS says there is a possibility of the mine and mill having to be shut down if existing standards were to be enforced, but U.S. Steel does say (p. 21): "U. S. Steel is continuing to work to determine the most efficient and effective options to meet the applicable sulfate standards. However, if MPCA does not revise the sulfate standard of 10 mg/L for the receiving waters of Keetac or approve the [site-specific standard], an impact on mining operations is likely as a result of extensive changes to water collection and treatment that will be required."

Perhaps the euphemistic phrase "an impact on mining operations is likely" is sufficient to cover mine closure, but NMW believes that it is not. This is supported by the rest of the sentence following that phrase, which spells out changes that would have to be made - which changes would only have to be made to enable continuation of operations in compliance with the applicable standard. The possibility that enforcement of standards would lead to mine shutdown or closure is the kind of risk the company would have to disclose to investors in an SEC 10-K filing. The omission of a clear statement threatening shut-down or closure is relevant to MPCA's assessment of the potential for widespread economic and social impact.

NMW's understanding is that a material omission or falsehood in an SEC filing is a felony for which the responsible executive can be charged, and the responsible executives generally take care to make sure that enough is said in SEC filings to satisfy the legal requirements.

Thank you again for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Matt Norton", with a stylized, cursive script.

Matt Norton
Northeastern Minnesotans for Wilderness