Wester, Barbara

From: Pierard, Kevin
Sent: Tuesday, April 07, 2015 11:33 AM
To: Foss, Ann (MPCA)
Subject: Polymet NPDES Requirements
Attachments: 2015 04 07 NPDES MPCA Northmet email attachment.docx; NorthMet - Impact Criteria-Permittability Memo FINAL (062011).pdf

Hi Ann,

During our review of the proposed Polymet - Northmet (Northmet) project related documents and Environmental Impact Statement (EIS) drafts we had several conversations concerning EPA's comments relative to the Clean Water Act (CWA) and specifically to future National Pollutant Discharge Elimination System (NPDES) permitting for the proposed Northmet project. The Minnesota Pollution Control Agency (MPCA) requested that specific responses to our comments on NPDES related issues be deferred to the permitting phase of the project rather than during the EIS development phase. EPA accommodated that request. Since many decisions concerning NPDES were not specifically summarized in writing I thought it would be helpful to do so to assure shared understanding of the issues and documentation of decisions and approaches we agreed upon. Accordingly, I am writing this note to document our understanding of MPCA's anticipated approach to address proposed discharges of pollutants to waters of the United States through NPDES permitting, and to explain EPA's position regarding the applicability of NPDES permit requirements for point source discharges of pollutants to surface waters, including those that occur via subsurface flow. We note that because these issues were deferred to permitting during the process to develop the EIS, we do not anticipate that the information in the EIS will necessarily be sufficient to address the concerns we have enumerated, and we anticipate that MPCA will be working with Northmet to ensure the development of a sufficient record to support NPDES permit issuance.

Discharges are proposed for the Northmet site which require NPDES permit coverage in order to be in compliance with the CWA. The project proponent has a duty to submit an NPDES permit application to seek coverage for all proposed pollutant discharges, so that the permit can be in place when the proposed pollutant discharges occur. The MPCA is responsible for issuing an NPDES permit, where appropriate, that contains conditions and limits which assure compliance with all applicable requirements of the CWA and regulations, including limitations controlling all pollutants which are determined to cause or have reasonable potential to cause or contribute to an excursion from any state WQS. The enclosure highlights the more significant issues that we have identified to date for this facility and that must be addressed during the NPDES permitting process.

Although we have spoken many times regarding these concerns please let me know if you have any questions or would like to discuss further. In addition, we look forward to working with you to assure timely decisions on new and expired mining permits consistent with our joint priority.

Please see the attachment for some more information on the NPDES applicability to the Northmet project.