Message

From: McKim, Krista [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AEBEEF6C80E141A29AA2BDDDD7329121-KMCKIM]
Sent: 3/11/2015 8:51:33 PM
To: Paula Maccabee [pmaccabee@justchangelaw.com]
CC: Wester, Barbara [wester.barbara@epa.gov]; Pierard, Kevin [pierard.kevin@epa.gov]; Kuefler, Patrick [kuefler.patrick@epa.gov]
Subject: FW: NPDES Permits
Attachments: MPCA FFY14 Mining Permits Joint Priority Report (2) NPDES.DOCX

Paula,

Attached is the self-assessment with our comments that was sent to MPCA by our State and Tribal Programs Branch.

Included in your message is a request for a contact person working to draft recommended field-based method that could be used by states and tribes to develop aquatic life water quality criteria for conductivity. The contact for the conductivity work is Colleen Flaherty in the Office of Science and Technology. Her contact information is below.

Colleen M. Flaherty | **Biologist**
Office of Science and Technology, Office of Water | U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Washington, DC 20460
☎ Phone: (202) 564-5939 | ✉ flaherty.colleen@epa.gov

With respect to the remainder of your requests for information, searching for potentially responsive records and responding to this request is too complex for a simple email request. Please make such requests through our Freedom of Information Act office. this can be accomplished through our FOIA website, which can be found at:

https://foiaonline.regulations.gov/foia/action/public/home

this will enable us to prioritize and effectively manage such requests.

Thank you,
Krista

Krista McKim, PE
Environmental Engineer
NPDES Programs Branch
US EPA, Region 5
312.353.8270
McKim.Krista@epa.gov

From: Paula Maccabee [mailto:pmaccabee@justchangelaw.com]
Sent: Wednesday, March 11, 2015 7:28 AM
To: McKim, Krista
Subject: Re: NPDES Permits

Hi, Krista. Please send us the self-assessment documents at your earliest convenience. Feel free to call me if you have questions.

Also, if you haven't already seen it yet, please check out this article: http://www.startribune.com/politics/statelocal/295844811.html

Thank you,
Paula

From: Paula Maccabee <pmaccabee@justchangelaw.com>
Date: Tuesday, March 3, 2015 9:10 AM
To: Krista McKim <mckim.krista@epa.gov>
Subject: NPDES Permits

Hi, Krista:

It was good to check in with you regarding Minnesota NPDES permits. I am in the process of tracking the status of the mining water quality permits identified by MPCA and EPA in the April 2013 permit priority agreement. It was helpful to learn that the MPCA has recently prepared a self-assessment report regarding water quality permitting. WaterLegacy requests a copy of the MPCA's most recent self-assessment of water quality permitting, along with EPA comments.

Once we have reviewed MPCA's self-assessment, I would like to share with you our evaluation of the status of mining permits, just to make sure that our factual analysis is consistent.

We also briefly discussed the issue of specific conductivity as it may pertain to NPDES permits. I've been researching the way in which narrative standards should be applied, both from a legal and a factual perspective. Good examples of the process of deriving numeric permit standards from narrative standards are available, particularly where EPA was the permit issuer. We are also collecting data from various sources in Minnesota regarding background specific conductivity levels, macroinvertebrate communities and stressors leading to impairment of aquatic life.

As I mentioned, in WaterLegacy's Data Practices Act research we received files from the MPCA containing information on stressors in the St. Louis River watershed and their relationship to mining pollutants, including specific conductivity. To the best of my knowledge, the attached draft report, which summarizes much of the research, has not been finalized or made available publicly, other than through WaterLegacy's use of this document as an exhibit. I have attached the report for your information. If you have a link for the Office of Research and Development or contact information for a staff person at EPA who is working on developing specific conductivity guidance, please let us know.

I have also attached the only document in our files analyzing reasonable potential for the Cliffs Erie tailings basin, permit MN0042536. Even using the 1,000 umhos/cm irrigation standard, it seems from this document that the MPCA found reasonable potential to exceed the irrigation standard. If you have any other documents reflecting MPCA's analysis or EPA's comments on the reasonable potential for specific conductivity to exceed irrigation water quality standards and/or contribute to impairment of waters for aquatic life in this or other recent Minnesota NPDES permit work, we would greatly appreciate seeing them. In our complete Mesabi Nugget files, the only analysis I recall was of potential exceedance of the irrigation standard; there was no attempt to apply a narrative standard to protect aquatic life. In the PolyMet SDEIS, there is no analysis of specific conductivity, either in terms of exceeding the irrigation standard or in terms of evaluating potential impacts on aquatic life.

I appreciate the chance to talk with you and better understand NPDES issues. Thank you for assisting us by providing documents and contact information.

Sincerely yours,
Paula

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