Mining Permits

October 1, 2012 – September 30, 2016 (FFY 2013-2016)

FFY 2016 REPORT

Objective:
Complete timely NPDES permitting actions for metallic mining projects in Minnesota to address outstanding environmental issues, eliminate permit backlog, and issue permit decisions for construction projects.

Statement of Problem/Issue:
Water quality permits for the metallic mining sector are critical to the protection of surface waters. These permits are often associated with economic development, are under increasing public scrutiny, and involve complex permitting situations. As a result, NPDES permits for the metallic mining sector have a higher than average reissuance backlog and permit decisions for new or expanding facilities are often delayed.

Scope:
All new, expanding and existing metallic mining operations in Minnesota needing NPDES permits.

Strategy:
Complete a workload analysis and schedule for pursuing staffing revisions; identify permit priorities and schedules; identify necessary process improvements based on past experience and implement process revisions; develop standard operating procedure(s) to expeditiously move to final permit decisions.

The Metallic Mining Joint Priority will include identification and prioritization of metallic mining permitting projects, and streamlining/improving the permitting process to assure NPDES permit decisions in a timely manner and eliminate the permit backlog over a 5-year period.

Work Load Analysis and Staffing

It is anticipated that significant additional staff resources will be needed to meet performance measures for this joint priority. The commitments in this joint priority are based on the assumption that the following activities are successfully completed:

By March 29, 2013 a work load analysis will be developed – MPCA lead. The work load analysis will include projections necessary to eliminate the metallic mining permit backlog to zero by July 1, 2018 and assure timely permit decisions for new construction (new and expanded mines) projects. The work load analysis will include known significant barriers to permit issuance and resources needed to address these barriers.

By April 30, 2013, EPA and MPCA will each independently develop staffing initiatives that reflect

the work load analysis and meet the commitments of the joint priority.

By June 30, 2013, EPA and MPCA will each independently achieve approval of staffing initiatives.

By September 30, EPA and MPCA will complete hiring or assignment of staff identified in the respective staffing initiatives.

By December 31, 2013, newly assigned EPA and MPCA staffs will complete permit writer training and other training, as appropriate to achieve a level of expertise needed to issue metallic mining permits.

Permit Project Prioritization and Scheduling

By April 1, 2013 MPCA and EPA will develop a Metallic Mining Permit Priority List that will focus staff resources on critical construction projects and permit reissuances necessary to eliminate the permit backlog by July 1, 2018 (5 years). The Priority List will include tiered goals and performance measures based on staffing (fewer projects under current staffing levels and more projects under the level identified in the staffing initiatives). Assuming the scope including the 25 existing metallic mining permits identified below, performance measures should achieve an average of 1) work on 2 new permits, 2) complete 5 permit modifications, and 3) complete 5 permit reissuances per year over the next 5 years to achieve a 20% backlog reduction per year and issue construction permits. This prioritization and schedule will be evaluated and updated by EPA and MPCA by October 1, 2013 and annually thereafter.

MPCA will lead the development of the Metallic Mining Permit Priority List and proposed schedule for completing each of the active permitting projects. The initial Metallic Mining Permit Priority List is provided below and will be updated every 12 months. Permit project schedules will be reviewed and revised monthly via MPCA/EPA conference calls.

Metallic Mining Permit Priority List (Preliminary)

NPDES ID	Permit Name	Current Major Minor Status	Issue Date	Expiration Date
NEW	POLYMET	TBD		
MN0054089	CLIFFS ERIE, LLC-HOYT LAKES (combining 2 permits)	Minor	5/4/2001	11/30/2005
MN0042579	CLIFFS ERIE LLC-DUNKA	Minor	8/3/2000	6/30/2005
MN0055301	NORTHSHORE MINING/SILVER BAY P	Major	1/26/2004	9/30/2008
MN0057207	US STEEL/MINNTAC TAILINGS BASI	Minor	9/30/1987	7/31/1992

MN0050504	US STEEL CORP-MINNTAC WWTF	Minor	12/31/1984	12/31/1989
MN0069078	MESABI MINING/STEEL DYNAMICS	Minor	11/30/2007	6/30/2010
NEW	ESSAR EXPANSION	TBD		
NEW	TWIN METALS	TBD		
NEW	TECK	TBD		
NEW	DIRECT REDUCED IRON	TBD		
MN0070378	Magnetation LLC - Plant 4			NEW
	TOP PRIORITIES ARE ABOVE THIS LINE			
MN0044946	EVELETH MINES LLC DBA EVTAC	Minor	6/30/1999	5/31/2004
MN0055964	ISPAT INLAND MINING CO-MINORCA	Minor	9/29/2000	7/31/2005
MN0042536	CLEVELAND CLIFFS LLC	Minor	5/4/2001	11/30/2005
MN0052116	UNITED TACONITE, LLC	Minor	8/25/2005	7/31/2010
MN0052493	US STEEL CORP-RESERVOIR	Minor	1/7/2004	11/30/2008
MN0049760	Hibbing Taconite Co - Tails Basin Area			4/30/2000
MN0044946	United Taconite LLC - Thunderbird Mine			5/31/2004
MN0060151	MDNR Soudan State Park			9/30/2008
MN0059633	ArcelorMittal Minorca Mine Inc. - Laurentian			12/31/2011
MN0001465	Hibbing Taconite Co - Mining Area			5/31/2013
MN0069221	Magnetation Plant 1 & Mesabi Chief Tailings Basins			6/30/2013
MN0069400	Northshore Mining Co - Silver Bay Dredge Disposal			2/28/2014
MN0046981	Northshore Mining Co - Peter Mitchell			7/31/2014
MN0069868	Magnetation Plant 2			9/30/2015
MN0020249	Midland Research Center			7/31/2016
MN0055948	Keewatin Taconite Operations - Tailings			10/31/2016
MN0031879	US Steel Corp - Keetac			10/31/2016
MN0070050	Mining Resources LLC			10/31/2016
MN0068241	Essar Steel Minnesota LLC			9/30/2017

FFY 2013 Report:

MPCA's staffing initiative was only partially funded and also delayed until July 2014. We expect funding for one additional FTE for water quality permitting. In the meantime, we are shifting resources to the extent possible and continuing work to eliminate the mining permit backlog. The Metallic Mining Permit Priority List has been developed and is up to date. The Magnetation Plant 4 was reissued in May. EPA and MPCA staff toured the US Steel Minntac and Cliffs Erie sites in mid-August 2013. We continue to work through various issues in an effort to get these permits developed and on public notice. The Polymet supplemental draft EIS is nearing public notice and the various media permits are being developed concurrently. EPA is a cooperating agency and participates in biweekly update meetings

Process Improvement

By June 30, 2013, EPA and MPCA will work together to develop Standard Operating Procedure(s) (SOP) for the development and review of Metallic Mining permits. The SOP shall include EPA and MPCA roles and responsibilities, and include generic time commitments for each step. The SOP shall describe EPA's early consultation on TMDL implementation, pre-TMDL impaired waters, compliance schedules, and complex effluent limit determinations. EPA and PCA will continue to work together on the variance process improvement effort currently underway.

To maximize permit decision making and processing, EPA and MPCA will work jointly on process improvement activities throughout the term of the PPA. Process improvement activities will include, but not be limited to, EPA/MPCA communications, communication with external parties, and addressing tribal concern. Initial improvements will focus on improved EPA/MPCA collaboration, development and improvement to permit templates, and avoiding duplication of work efforts.

As process impediments are identified EPA and MPCA agree to evaluate and resolve the impediment in a fixed period of time. If an issue is not resolved within the established period, it will be elevated to the Division Director (EPA) level and Assistant Commissioner (MPCA) level for resolution.

EPA Comments:

EPA developed a draft SOP and sent it to the MPCA on July 1, 2013. MPCA provided brief verbal feedback later that month. MPCA provided written revisions to EPA's draft SOP on December 23, 2013. Additional negotiation is needed to finalize the SOP. MPCA will work with EPA to schedule further discussions on this issue.

FFY 2014 Report:

Staffing – Adequate staffing continues to be a challenge. MPCA received funding for one additional FTE in water quality permitting beginning July 2014. This funding was delayed from original expectations when the joint priority was developed. In addition, it has been difficult to find qualified candidate that is willing to accept this position. Additional candidate interviews are scheduled with the hope of filling the position in the next 2 months. MPCA also lost a key mining unit supervisor who recently transferred to a private sector position. The supervisor position was filled internally.

EPA Comments: (Kuefler, Patrick)

The report identifies that the level of effort to date has not been sufficient to meet the joint priority objective and eliminate the permit backlog over a 5-year period nor does it provide significant actions or enhanced strategies intended to improve program performance or meet the joint priority objective going forward. MPCA should provide an enhanced strategy such as redeploying permitting staff from other NPDES industrial sector permitting groups to assist with processing the permits timely in accordance with the Joint priority.

[Additional Update] As of March 2015, total staffing for industrial permitting work (excluding WQ limits development) is 15 FTEs. Thirty of Minnesota's 826 NPDES/SDS industrial facilities are included in the Mining Permits Joint Initiative and 4.2 of the 15 FTEs are currently dedicated to these 30 mining permits. Assigning 28% of our staff resources to less than 4% of NPDES/SDS industrial facilities included in the Mining Permits Joint Initiative demonstrates an extremely high commitment to the joint priority. Two staff FTEs committed to mining projects are new staff that will require training. MPCA also has a manager, 2 supervisors and 2 project managers devoted to metallic mining. At a minimum, 1/3 to 1/2 of these FTEs are devoted to water quality. While the MPCA staff resource commitment to this joint priority remains very high, divergences on significant regulatory issues between the agencies remain. This makes issuance of any metallic mining permits in a timely manner difficult. We need EPA's cooperation in working through these issues if we are to continue committing a high level of staff resources to the joint priority. We would also like to know how many EPA staff FTEs are devoted to this priority as it appears that only part of one staff is currently devoted to this priority.

EPA Comments (April '15):
Immediately following establishment of this joint priority EPA completed a work load analysis based on the anticipated workload associated with assisting MPCA in development of new and reissued mining permits and reviewing such permits. This analysis suggested that 5.0 FTEs would be necessary at EPA Region 5 to successfully manage this workload. Staff and managers within Region 5 (a total of 5 FTE) were assigned to this task and were prepared to handle the increased workload. Region 5 also alerted EPA Headquarters to the likely increased emphasis in this area of the program in anticipation of complex issues that could require policy level coordination. This workload has yet to materialize and the staff have been redeployed to active areas of the NPDES program. The current workload associated with EPAs commitment to this joint priority for NPDES mining permits in Minnesota is less than 1.0 FTE due to the low number of permit outputs. If "divergences on significant regulatory issues" is inhibiting MPCAs ability to issue / reissue NPDES permits, these issues should be identified and prioritized for resolution.

Mining Permit Priority List – MPCA and EPA staff remain focused on several permit reissuances as well as new permits and permit modifications. By the end of 2014 we expect to have the US Steel Minntac Tailings Basin permit (which will include the WWTF) on public notice. We are also actively working on two permit modifications. MPCA proposes to update the Metallic Mining Permit Priority List as follows:

EPA Comments: (Kuefler, Patrick)
The priority list presented should be adjusted to reflect the goal of the joint priority. EPA recommends a revision to the list of permits/sites to ensure the objective of the priority is met. Mine permits that are not NPDES permits should be removed from the list for purposes of the joint priority and the remaining permits should be prioritized to reflect the need to address active discharges, potential environmental impact of those discharges and the duration of which the permit has been expired. EPA provides a recommended table of priority permits.

MPCA Response:
SDS permits were discussed as this joint priority was originally developed and EPA agreed to allow them to be included. The Objective states that construction projects are included in the joint priority. Some of these projects are SDS and therefore remain on the list. Given the unresolved regulatory issues we believe both agencies benefit from working jointly on these

permits. We agree with some of the proposed changes to the priority list. We do not agree to reducing the priority of Cliffs Erie Dunka. The state has made a commitment to the tribes to make this a high priority permit action and we need to follow-through on that commitment.

FFY 2015 Report:

Staffing - The MPCA has three water quality permit writers focused on mining permits. In addition, over 50% of the Mining Sector Manager and two supervisors are devoted to water permits [***EPA Comment:*** Is this the reduction from the 4.2 FTE mentioned in the highlighted text above? We understood the MPCA was working to increase staff devoted to reissuing mining permits]

MPCA Response to EPA comment (Feb 2016):

Reviewing staffing levels in the same context as the March 2015 Update, approximately 30 of Minnesota's 800+ NPDES/SDS industrial facilities are included in the Mining Permits Joint Initiative and 3.2 of the 14 permitting FTEs are currently dedicated to these 30 mining permits. This is a reduction due to lack of funding to refill a vacated position. However, we maintain that assigning 22% of our staff resources to less than 4% of NPDES/SDS industrial facilities included in the Mining Permits Joint Initiative demonstrates a high commitment to the joint priority.

Project Prioritization and Scheduling - Water Legacy filed a Petition for Withdrawal of Program Delegation from the State of Minnesota for NPDES Permits Related to Mining Projects on July 2, 2015. MPCA is cooperating with EPA as they investigate this petition. Part of this investigation will include discussions about priorities, process, and any necessary changes to either priorities or process. [***EPA Comment/question***: Why is MPCA discussing the petition here? This is supposed to be an update on the progress MPCA has made to address the joint priority]

MPCA Response to EPA comment (Feb 2016):

The last update should have noted that our priorities have not changed except as noted below. We simply wanted to acknowledge that we are open to discussing priority adjustments in response to EPA's findings on the petition.

Please note the Priority List entries 'Essar Expansion' and 'Teck' have been deleted from the 2015 Priority List as these projects are no longer planned or are so far out in the future (more than 10 years) as to be purely speculative at this point.

FFY 2016 Report:

Nothing additional to report at this time.

Metallic Mining Permit Priority List (Proposed Updates 11/1/15)

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MN0069078	MESABI MINING/STEEL DYNAMICS	Minor	11/30/2007	6/30/2010
~~NEW~~	~~ESSAR EXPANSION~~	~~TBD~~		
NEW	TWIN METALS	TBD		
~~NEW~~	~~TECK~~	~~TBD~~		
MN0070378	Magnetation LLC - Plant 4 MODIFICATION		5/22/2013	4/30/2018
MN0070050	Mining Resources LLC MODIFICATION		8/01/2014 (mod)	10/31/2016
	TOP PRIORITIES ARE ABOVE THIS LINE			
MN0044946	EVELETH MINES LLC DBA EVTAC	Minor	6/30/1999	5/31/2004
MN0055964	ISPAT INLAND MINING CO-MINORCA	Minor	9/29/2000	7/31/2005
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MN0060151	MDNR Soudan State Park			9/30/2008
MN0059633	ArcelorMittal Minorca Mine Inc. - Laurentian			12/31/2011
MN0069221	Magnetation Plant 1 & Mesabi Chief Tailings Basins			6/30/2013
MN0069400	Northshore Mining Co - Silver Bay Dredge			2/28/2014

	Disposal			
MN0069868	Magnetation Plant 2			9/30/2015
MN0020249	Midland Research Center			7/31/2016
MN0055948	Keewatin Taconite Operations - Tailings			10/31/2016
MN0031879	US Steel Corp – Keetac			10/31/2016
MN0070050	Mining Resources LLC			10/31/2016
MN0068241	Essar Steel Minnesota LLC			9/30/2017
MN0070378	Magnetation LLC - Plant 4			NEW

EPA Comment:
Please explain which of these permits you are actually working on.

MPCA Response to EPA comment (Feb 2016):
Polymet environmental review, Minntac and Northshore Silver Bay are active work.

Additional information:
For more information on the Mining Permits Joint Priority, contact:
At MPCA: Jeff Stollenwerk, 218-302-6612, [HYPERLINK "mailto:jeff.stollenwerk@state.mn.us"]
At EPA Region 5: Kevin Pierard, 312-886-4448, [HYPERLINK "mailto:pierard.kevin@epa.gov"]