Message

From: Pfeifer, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ED10EF76A4EE4FCBBDFF82B45726D64D-DPFEIFER]
Sent: 3/23/2016 8:42:36 PM
To: Johnson, Aaron [Johnson.AaronK@epa.gov]
Subject: FW: WaterLegacy Comments on MPCA Proposed Rules Governing Antidegradation of Minnesota Waters
Attachments: WaterLegacyComment_MPCAProposedAntidegradationRules(3-23-16).pdf; Ex.1WaterLegacyMemo_PolyMetNorthMetDegradationofWaterQuality(3-10-16).pdf; Ex.2WaterLegacyComment_MPCADraft401CertificationNorthshore(11-4-15).pdf; Ex.3EPAFinalProtocol_InvestigationWaterLegacyPetitionWithdrawAuthority(3-8-2016).pdf

Importance: High

Aaron,

Just got these. Please do a once through to see if anything she is saying is something we need to address. I will review them as well. Thanks!

Dave

David Pfeifer
Chief, Standards Section
USEPA, Region 5

312-353-9024

From: Paula Maccabee [mailto:pmaccabee@justchangelaw.com]
Sent: Wednesday, March 23, 2016 3:38 PM
To: Holst, Linda <holst.linda@epa.gov>; Pfeifer, David <pfeifer.david@epa.gov>
Cc: Hyde, Tinka <hyde.tinka@epa.gov>; McKim, Krista <mckim.krista@epa.gov>
Subject: WaterLegacy Comments on MPCA Proposed Rules Governing Antidegradation of Minnesota Waters

Dear Ms. Holst and Mr. Pfeifer,

Attached with this email, please find WaterLegacy's comments on the Minnesota Pollution Control Agency's (MPCA) proposed antidegradation rules. WaterLegacy is concerned that the proposed rules violate federal law; fail to protect Minnesota waters, including high quality and outstanding resource value waters, from degradation; conflict with Minnesota statutes and policies; undermine public participation; and fail to provide a reasonable structure for antidegradation assessment.

We believe that the MPCA's proposed antidegradation rules would make it more difficult for the State of Minnesota to regulate and control pollution from existing mines and from proposed sulfide mines, including the proposed PolyMet NorthMet open pit copper-nickel mine. With our comments, WaterLegacy's exhibits include a memorandum related to the PolyMet project and degradation of water quality.

WaterLegacy is concerned that several of Minnesota's ongoing proposals to change state water quality standards and procedures could weaken those standards or render them unenforceable. The U.S. Environmental Protection Agency (EPA) is familiar with pressure in Minnesota to eliminate, weaken or render unenforceable the State's standard limiting sulfate discharge to wild rice waters. EPA recently found MPCA's draft rules for water quality variances to be less stringent than federal requirements in several respects.

WaterLegacy believes that the MPCA's proposed changes to antidegradation rules would be less stringent than federal law and would not provide an effective antidegradation assessment, as explained in the attached comments. We have also learned that the MPCA is considering removing all numeric limits for Class 3 and Class 4 waters, including wetlands.

WaterLegacy would request that the EPA scrutinize MPCA's proposed antidegradation rules and other State efforts to change water quality standards and procedures in light of the context in which such actions are being proposed as well as the pressing need in Minnesota to regulate and control discharge from existing and proposed mining facilities.

Please feel free to contact me if you have any questions regarding WaterLegacy's comments.

Sincerely yours,

Paula Maccabee, Esq.
JUST CHANGE LAW OFFICES
1961 Selby Ave.
St. Paul MN 55104
phone: 651-646-8890
fax: 651-646-5754
Cell: 651-775-7128
e-mail: pmaccabee@justchangelaw.com
http://www.justchangelaw.com

Advocacy Director/Counsel for WaterLegacy

CONFIDENTIALITY NOTICE: The information contained in this e-mail is confidential, may be legally privileged, and is intended only for the use of the party named above. If the reader of this e-mail is not the intended recipient, you are advised that any dissemination, distribution, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at 651-646-8890 and destroy this e-mail.