

<b>Matter Information</b>
Matter Name: Minntac Tailings Basin HQ/Region Lead: Region 5 Point of Contact: Dean Maraldo, WECAB, Deborah Carlson ORC Date of Briefing: TBD
<b>Brief Overview of Matter</b> (two or three sentences)
The Minntac Tailings Basin is a part of a U.S. Steel (USS) mining operation in St. Louis County, Minnesota. Region 5 has found numerous unauthorized discharges from the Tailings Basin to the Sand and Dark rivers and Timber Creek, from surface water seeps through the basin dikes. The NPDES permit for the facility, covering just two surface seep outfalls, has been administratively continued pursuant to Minnesota regulations since it expired in 1992, and the facility is operating without an effective NPDES storm water permit.
<b>Action Requested</b>
Refer matter to the U.S. Department of Justice and pursue consent decree to address violations and implement remedial actions.
<b>Procedural Posture</b>
The Region has conducted an inspection and collected surface water samples that confirm the unauthorized discharges. The inspection report has been shared with the State and the Region plans to refer the matter to DOJ.
<b>Summary of Claims and Defenses</b> (with statutory/regulatory citations)
<ul style="list-style-type: none"> <li>• Failure to apply for storm water permit - industrial storm water: USS is operating without NPDES industrial storm water permit coverage for the Tailings Basin facility. [CWA Section 402(p)(3)(C); 33 U.S.C. 1251 et. seq; 40 CFR 122.26(b)(14) (iii)].</li> <li>• Unauthorized discharges - wastewater seep discharges through Tailings Basin containment dike and under seep collection system to wetlands and Timber Creek. [CWA Section 301(a), 33 U.S.C. § 1311(a)].</li> <li>• Unauthorized discharges – wastewater seep discharges from Dark River Pond: during EPA’s inspection USS identified the Dark River Pond as a source for wastewater seep in southwest portion of basin. [CWA Section 301(a), 33 U.S.C. § 1311(a)].</li> </ul>
<b>Discussion of Compliance-related Injunctive Relief Sought</b> (linked to statutory/regulatory citations)
<ul style="list-style-type: none"> <li>• Submit permit application and develop storm water pollution prevention plan. [CWA Section 402(p)(3)(C); 33 U.S.C. 1251 et. seq; 40 CFR 122.26(b)(14) (iii); Minn. Stat. chs. 115 and 116, as amended, and Minn. R. chs. 7001 and 7090].</li> <li>• Eliminate unauthorized discharges – submit amended permit application for unauthorized seeps and compliance schedule to reduce pollutants in Tailings Basin to levels sufficient to comply with new permit limits based on applicable WQS in receiving waters. [CWA Section 301(a), 33 U.S.C. § 1311(a)].</li> <li>• Eliminate unauthorized discharges or submit permit application for wastewater discharge from the Dark River Pond. [CWA Section 301(a), 33 U.S.C. § 1311(a)].</li> </ul>
<b>Discussion of Mitigation-related Injunctive Relief Sought</b> (identifying harm from statutory/regulatory violations)
NA
<b>Discussion of SEPs (if any) and Penalties Sought</b>
TBD
<b>State Position on Matter</b>
Region shared findings with the Minnesota Pollution Control Agency (MPCA) to determine State’s interest in resolving alleged violations through a joint enforcement action. MPCA declined our offer to do a joint action. However, the State does not oppose the action. MPCA sees value in a referral but is uncertain of how our action might impact the permit issuance.
<b>Significant or Precedential Issues</b>

- MPCA expects to issue final permit, with a compliance schedule, within 60-90 days. However, renewal of the expired 1992 NPDES permit has a long history of delay and is likely to be appealed after issuance.
- USS may argue that some of the seep discharges travel to surface waters via groundwater and are not regulated under the CWA. Although there are seeps to groundwater beneath the basin, our case is based on seeps through the containment dike to surface water.
- The facility is highlighted in the *Water Legacy Petition for Withdrawal of Program Delegation from the State of Minnesota for NPDES Permits Related to Mining Facilities*. The petition cites “MPCA’s unwillingness to control mining pollution in compliance with water quality standards is demonstrated clearly in the history of inaction to control sulfate and hardness pollution from U.S. Steel’s Minntac tailings basin.”
- USS is under a 2011 State Schedule of Compliance (SOC) to develop a seep collection system for seeps on the west side of the Tailings Basin. The SOC did not include firm dates for completion of the system, and timing for installation remains uncertain. A 404 permit for the system is pending with the Corps. USS operates a seep collection system on the east side of the Tailings Basin. However, these seep collection systems do not adequately collect all seepage and the remedy here should be treatment of the wastewater in the basin to appropriate levels.

**Other**

The case has significant federal interest as the basin discharges to streams that flow through USFS land and impacts wild rice habitat important to tribes in the area.