



Minnesota Pollution Control Agency

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September 26, 2012

TO: INTERESTED PARTIES

RE: Essar Steel Minnesota LLC – Nashwauk, Minnesota – Request for Approval of Findings of Fact, Conclusions of Law, and Order and Request for Authorization to Reissue National Pollutant Discharge Elimination System/State Disposal System Permit No. MN0068241

On September 25, 2012, the Minnesota Pollution Control Agency (MPCA) Citizens' Board voted to approve the Findings of Fact, Conclusions of Law, and Order approving the reissuance of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit for Essar Steel Minnesota LLC, Nashwauk, Minnesota. The Findings of Fact, Conclusions of Law, and Order document concludes that the decision to reissue the Essar Steel Minnesota LLC Permit satisfied the requirements of Minn. Stat. chs. 115 and 116, Minn. R. chs. 7000 and 7001, and applicable federal regulations.

We appreciate the time and effort of those who submitted comments on the NPDES/SDS Permit No. MN0068241 for Essar Steel Minnesota LLC.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Linc Stine", is positioned above the printed name of the Commissioner.

John Linc Stine
Commissioner

JLS/SH:rm

**STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF THE PROPOSAL TO REISSUE
THE NPDES/SDS PERMIT NO MN0068241
FOR ESSAR STEEL MINNESOTA, LLC
NASHWAUK, MINNESOTA**

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER**

The above-entitled matter came before the Minnesota Pollution Control Agency (MPCA) Citizens' Board at a regular meeting held in St. Paul, Minnesota on September 25, 2012. Based on the MPCA staff review, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

This matter involves the application of the Essar Steel Minnesota, LLC corporation for reissuance of National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit No. MN0068241. The NPDES/SDS Permit incorporates an SDS Permit authorizing the operation of a tailings basin and a NPDES Permit authorizing the discharge of mine pit dewatering water and industrial stormwater to the Ann and Sullivan Pits. For the purposes of these Findings of Fact, Conclusions of Law, and Order, the Essar Steel Minnesota, LLC Corporation is referred to as Essar Steel or Permittee. The permit reissuance includes requirements to address the proposed increased mining rates and production of high-flux oxide pellets and low flux/direct reduced iron (DRI) grade oxide pellets; and the decrease in production of steel. The MPCA must determine whether, under applicable statutes and rules, it should reissue the permit.

BACKGROUND

1. In June 2007, a Final Environmental Impact Statement (FEIS) was issued jointly by the Minnesota Department of Natural Resources (MDNR) and the United States Army Corps of Engineers (USACE) for Minnesota Steel Industries (MSI) reactivation of the former Butler Taconite mine and tailings basin area located in Nashwauk, Minnesota. The EIS was deemed adequate in August 2007.
2. Also in August 2007, following the adequacy decision on the EIS, the MPCA issued a NPDES/SDS permit (MN0068241) to Minnesota Steel Industries. The 2007 NPDES/SDS Permit incorporates an SDS Permit authorizing the operation of the tailings basin and a NPDES Permit authorizing the discharge of stormwater and mine pit dewatering water to the Ann and Sullivan Pits.
3. In October 2007, Essar Steel Holdings Ltd. (ESHL) purchased Minnesota Steel Industries and subsequently formed Essar Steel Minnesota, LLC.
4. On October 14, 2008, the Permittee submitted an application for a minor permit modification to transfer ownership from Minnesota Steel Industries to Essar Steel.

5. On November 7, 2008, the MPCA transferred NPDES/SDS Permit No. MN0068241 from Minnesota Steel Industries to Essar Steel.
6. In late 2009, Essar Steel proposed modifications to the original MSI project. The modifications included an increase in taconite pellet production and associated mining, crushing, ore concentrating and tailings generation rates compared to the original MSI project.
7. Pursuant to Minn. R. pt. 4410.3000, subp. 5(C), the MDNR, with the assistance of a consultant, prepared a Draft Supplemental Environmental Impact Statement (SEIS) encompassing the project's proposed modifications. On April 29, 2011, the MDNR distributed copies of the Draft SEIS to all parties designated on the Environmental Quality Board (EQB) Environmental Assessment Worksheet (EAW) distribution list, governments with authority to permit or approve the project, the project Proposer (Essar Steel), and to all individuals requesting a copy. Copies were also distributed to all parties that received the original MSI FEIS and to all persons who submitted substantive comments on the SEIS Preparation Notice.
8. Pursuant to Minn. R. pt. 4410.2600, subp. 5, a Notice of Availability of the Draft SEIS was published in the May 2, 2011 EQB *Monitor* (Vol. 35, No. 9).
9. Pursuant to Minn. R. pt. 4410.3000, subp. 5(C), a public information meeting was held on May 24, 2011.
10. The Draft SEIS public comment period concluded June 8, 2011.
11. The MDNR accepted written comments on the Draft SEIS from May 2, 2011, to June 8, 2011.
12. The MDNR prepared written responses to comments made at the public informational meeting and to substantive comment letters received during the Draft SEIS public comment period. The responses to comments are provided as appendices in the Final SEIS.
13. Pursuant to Minn. R. pt. 4410.2700, subp. 3, on December 7, 2011, the Final SEIS was distributed to all parties that received a copy of the Draft SEIS, to all parties that submitted comments on the Draft SEIS and to all parties requesting a copy. The Final SEIS incorporates the Draft SEIS by reference.
14. The SEIS for the proposed Essar Steel project was deemed adequate on December 29, 2011.

PROPOSED PROJECT

15. Essar Steel proposes to operate a taconite mine, processing plant, steel-making facilities, and a tailings basin located at the former Butler Taconite mine located near Nashwauk, Minnesota.
16. The facility was originally permitted under a NPDES/SDS Permit issued to Minnesota Steel Industries on August 21, 2007 and incorporates a SDS Permit authorizing the operation of the tailings basin and a NPDES Permit authorizing the discharge of stormwater and mine pit dewatering water to the Ann and Sullivan Pits.

17. In the 2007 EIS, the MPCA determined deep seepage from the tailings basin at this facility was not a point source. Impoundments, such as this tailings basin, that do not include a discharge to surface water and do not have a “discernable, confined, or discrete conveyance” (as defined by 40 CFR § 122.2) to surface water through subsurface flow are classified as a “disposal system” under Minn. Stat. §115.01, subd. 5 and as required under Minn. R. 7001.0020(D) and permitted under the SDS program. There has been no new information provided in the 2011 SEIS that would require a change to this initial determination.
18. Essar Steel applied for reissuance of its NPDES/SDS permit on December 5, 2011. The permit application proposed modifications to the original 2007 Minnesota Steel Industries project. The proposed Essar Steel project included all activities permitted under the original MSI project including mining, ore processing, DRI production and steel-making, but modified the project to encompass higher taconite pellet production and associated mining, crushing, ore concentrating and tailings generation rates; and a reduction in capacity to produce DRI and steel slabs.
19. The proposed modifications include an increase in taconite pellet production from 4.1 million tons/year of low-flux DRI feed grade taconite pellets to 6.5 million metric tons/year of high flux oxide furnace grade pellets or 7.0 million metric tons/year of low-flux, DRI grade oxide pellets. The proposed project also includes an increased mining rate, which will subsequently reduce the 20-year life of the mine to 15-years.
20. In December 2011, the MDNR deemed adequate a SEIS, which evaluated impacts associated with the increase in capacity, construction and operation of the modified mine plan, new crushing/concentrating lines, expansion of the indurating furnace, and a reduction in capacity to produce DRI and steel slabs. The permitted facility description and permit requirements in the draft NPDES/SDS permit reflect changes evaluated during the 2011 SEIS.
21. Essar Steel is currently undergoing construction of the proposed facility and has not yet initiated operation. The principal activities at this facility will include open-pit mining of the Biwabik Iron Formation at a rate of approximately 24.0 million metric tons of ore per year, crushing, concentrating, and pelletizing a combination of approximately 6.5 million metric tons of high-flux oxide pellets or approximately 7.0 million metric tons of low-flux/DRI grade oxide pellets; direct iron reduction of approximately 1.8 million metric tons of iron pellets; and production of approximately 1.5 million tons of steel slabs using arc furnaces, ladle metallurgy furnaces, and casters.
22. Essar Steel proposes to reuse process water from the pellet plant; and treat and reuse process water from the DRI, melt shops and steel mill. The only water entering the tailings basin will be precipitation and water used to convey tailings to the basin from the concentrator.

TAILINGS BASIN DEEP SEEPAGE

23. A seepage collection and return system will be constructed to collect any potential lateral seepage to surface waters and return it back to the tailings basin to ensure there is no discharge to surface waters from the tailings basin. The seepage collection and return system will collect approximately 2,000 gallons/minute via a network of ditches and pipes along the toe of the tailings basin.
24. A revised geotechnical evaluation conducted in support of the SEIS indicates an anticipated range of 65 to 199 gallons per minute (gpm) in deep seepage flows in Year 15 of the proposed project. Hydraulic conductivity of 2.8×10^{-6} cm/s was selected for use to determine deep seepage rates from the tailings basin.
25. The hydraulic conductivity of 2.8×10^{-6} cm/s represents a conservative estimate of expected deep seepage values. Deep seepage is anticipated to be less than the values predicted using the high conductivity and will be verified with monitoring throughout the life of the tailings basin.
26. Detailed analysis of the tailings basin conducted during 2010 showed a reduction in deep seepage from that predicted in the 2007 EIS. The 2011 SEIS adjusted seepage rates based on additional geotechnical analysis from 758 gpm to 199 gpm.
27. Based on the 2011 SEIS, and using a conservative estimate of deep seepage, it is expected that the concentration of modeled constituents in the tailings basin will be below ground water standards applicable to deep seepage losses from the tailings basin.
28. With the water reuse and recycle management strategy for the DRI plant, melt shop, and hot strip mill, the concentration of dissolved constituents in the tailings basin will be significantly lower than the concentration of the same constituents that currently exist in other Minnesota Iron Range tailings basins for taconite processing facilities. There will not be any water laden with combustion materials or scrubber water recycled through the pellet plant, concentrator or tailings basin. In addition, the ore to be mined by Essar Steel has very low sulfides compared to other iron range facilities.
29. The seepage collection and return system will be constructed around the tailings basin as the basin is constructed and prior to the facility initiating operation. It will not be necessary to retrofit the seepage collection and return system to an operating system as other companies have done in Minnesota.

DRAFT PERMIT

30. The MPCA discussed the proposed draft permit with water program staff and managers from Region 5 of the U.S. Environmental Protection Agency (EPA) during development of the draft permit. During these discussions, which occurred over a period of several months, the EPA understood and did not object to the MPCA's permitting approach to authorize operation of the tailings basin under an SDS permit based on the following factors:
 - There is no current surface discharge from the tailings basin.

- The Permittee does not propose to discharge to surface water from the tailings basin.
- All currently available information regarding the potential for, and timing of, future discharges attributable to the tailings basin via deep seepage.
- At this time, based on modeling conducted for the 2011 SEIS and the operational status of the facility, there is no evidence of the tailings basin showing potential significant impacts to surface waters via deep seepage. The SEIS projects operation of the tailings basin could result in a potential nominal contribution of pollutants to nearby surface waters within 10-15 years.

31. The draft permit contains several provisions to address potential discharges to surface waters via deep seepage from the tailings basin at Essar Steel:

- a. Installation and operation of a lateral seepage collection system at the tailings basin. The lateral seepage collection system collects water seeping laterally through the basin dikes. Water collected in the lateral seepage collection system will be pumped back into the tailings basin where it can be reused by the facility; thus, protecting surface waters from potential lateral surface seepage.
- b. A ground water monitoring network consisting of one upgradient well and four downgradient wells has been established around the tailings basin. The wells are currently collecting background data prior to operation and will continue to collect ground water data during operation of the tailings basin. Ground water is required to be monitored three times per year for the following parameters: alkalinity, calcium, chloride, cobalt, elevation, fluoride, hardness, iron, magnesium, manganese, molybdenum, nitrite plus nitrate, pH, potassium, sodium, total dissolved solids, specific conductance, and sulfate. Monitoring for mercury is required once per year. Monitoring of the ground water monitoring well network surrounding the basin will be used to identify any increases in pollutant loading from the tailings basin seepage prior to the seepage reaching surface waters.
- c. Monitoring of the water in the tailings basin is required three times per year for the following parameters: calcium, chloride, elevation, fluoride, hardness, magnesium, nitrite plus nitrate, phosphorus, sodium, total dissolved solids, and monthly for sulfate and the mass transported from the facility.
- d. Surface water monitoring is required at Oxhide Lake, Snowball Lake, Swan Lake (middle), Swan Lake (North Bay), and O'Brien Lake. Monitoring is required twice per year for the following parameters: chloride, chlorophyll a, Eh, hardness, iron, dissolved oxygen, pH, orthophosphate, phosphorus, total dissolved solids, total suspended solids, specific conductance, sulfate and temperature. Sulfate is required to be monitored four times per year in both of the Swan Lake locations.
- e. Special requirements for increased and enhanced water quality monitoring for sulfate in Swan Lake, as well as requirements for conducting a Source Identification Study, including the evaluation of potential water treatment options, in the event: the sulfate concentrations in the tailings basin rise above 50 mg/L, a conservative trigger level based on modeling conducted in the SEIS.

- f. If sulfate levels in the tailings basin are less than 50 mg/L , but an upward trend in sulfate concentrations is observed in ground water monitoring well or lake sampling, Essar Steel shall conduct a Source Identification Study. The study shall include discussion on tailings basin operation and potential transport of pollutants from the tailings basin to surface waters as well as potential sources of sulfate including sources outside of Essar Steel's operations.
 - g. A Comprehensive Ground Water Evaluation Report (Report) is required after two years of operation of the tailings basin. The Report is required to include a summary of at least two years of ground water monitoring data collected prior to initiation of operation of the tailings basin and two years of monitoring data collected during operation of the basin. The purpose of the Report is to assess any potential impacts from the tailings basin to ground water and to evaluate effectiveness of the monitoring well network and the need for further ground water monitoring requirements or limitations.
 - h. Language is included in the draft permit that reserves the MPCA's right to request additional information, including corrective actions, if the MPCA determines the tailings basin is adversely impacting ground water in comparison to the available baseline monitoring data or applicable Health Risk Limits. Corrective actions will be determined at that time, if necessary, and would be based on the data collected during the permit cycle and type and extent of impacts that would need to be mitigated. If the Permittee is notified by the MPCA that adverse changes in ground water have occurred, it must identify a response to the MPCA within 60 days. Corrective actions will be subject to MPCA review and approval.
32. The Essar Steel Minnesota project includes several water quality mitigation measures designed to ensure protection of human health and the environment. These measures include:
 - Removal of sulfur from the process through dry air pollution control systems for the indurating furnace, which eliminate a scrubber blowdown stream and a sulfuric acid backwash stream;
 - Water conservation measures including source reduction and recycling of water as much as practicable;
 - Tailings basin lateral seepage collection;
 - The tailings basin seepage rate is less than that of an engineered lined system (less than 500 gallons/acre/day); and
 - Water entering the tailings basin will be only from precipitation and water used to convey tailings to the basin from the concentrator.
33. The evaluation report, monitoring requirements, and potential corrective action requirements are all included within the draft permit and are enforceable permit requirements. The Draft Permit is designed to provide monitoring requirements that are adequate, enforceable, and provide sufficient protection to surface waters. The Draft Permit is designed to address potential discharges to surface waters via deep seepage from the tailings basin.
34. The 2011 SEIS concluded "the ground water/surface water monitoring requirements of the existing permit would be sufficient to identify and address incremental seepage/sulfate increases before seepage can affect wild rice. Monitoring of the ground water monitoring wells surrounding

the tailings basin will be used to identify any increases in loading from tailings basin seepage prior to seepage reaching surface waters.” The Draft Permit requires enhanced monitoring of the tailings basin, ground water and surface water; thus it exceeds the requirements discussed in the SEIS.

35. The Draft Permit monitoring requirements were included not only to identify increases in concentrations in comparison to baseline monitoring but to verify the results of the 2011 SEIS environmental modeling for deep seepage from the tailings basin. Based on this modeling, the SEIS concluded ground water standards were expected to be complied with prior to entering the ground water table. In addition, based on this modeling, the SEIS concluded there were no potential significant impacts to surface water quality from operation of the tailings basin.
36. It has been determined, based on no anticipated adverse impacts as described in the SEIS, that monitoring of the ground water, surface waters and tailings basin water is the appropriate tool to verify the modeling. Monitoring of the ground water monitoring well network surrounding the basin will be used to identify any increases in pollutant loading from the tailings basin deep seepage prior to the deep seepage reaching surface waters.
37. The Permit contains provisions which allow the MPCA to require corrective actions if there are impacts to the ground water that can be attributable to the tailings basin. Corrective actions will be determined at that time, if necessary, and would be based on the data collected during the permit cycle and extent of impacts that need to be mitigated.
38. The monitoring requirements, reporting requirements, and special conditions included within the draft permit are enforceable permit requirements. Considering these factors, the MPCA believes the monitoring requirements are adequate, enforceable, and will provide sufficient protection of surface waters.
39. In its comments, Minnesota Center for Environmental Advocacy (MCEA) contends there is an inevitable discharge to Swan Lake via groundwater that must be regulated by a NPDES Permit.¹ However, there is currently no discharge to a navigable water meriting a NPDES Permit. Based on studies conducted for the 2011 SEIS and current information, including discussions with EPA, an SDS permit is appropriate for the operation of the tailings basin. If data from enhanced monitoring or circumstances change such that a direct discharge to surface water is necessary or documented, appropriate actions can be taken consistent with the CWA, including issuance of a NPDES Permit.

¹ *Waterkeeper Alliance, Inc. v. U.S. EPA*, 399 F.3d 486, 504 (2d Cir. 2005) (authorizing states to administer permit programs for “discharges into navigable waters”).

SULFATE/WILD RICE

40. The SEIS evaluated information on the current presence of wild rice in waters downstream of the proposed Essar Steel project. A wild rice survey was conducted in 2010 to identify potential impacts to wild rice in receiving waters downstream of the project due to changes in sulfate concentrations and/or water levels. The 2010 wild rice survey included Swan Lake, Oxhide Lake, O'Brien Lake, Snowball Lake, Pickerel Creek and Swan River.
41. Results from the 2010 wild rice survey identified the presence of wild rice in the southwest bay of Swan Lake and in the Swan River downstream from Swan Lake. The southwest bay, which is the only part of Swan Lake identified as having wild rice populations, is an isolated bay that is tributary to the main part of the lake. The main flowage through the lake does not flow through this bay. Wild rice was not identified in the main body of Swan Lake.
42. The wild rice survey results were evaluated by a MPCA workgroup to determine whether the waters surveyed in the 2010 wild rice survey were wild rice production waters. The workgroup determined that the southwest bay of Swan Lake was a wild rice production water. The workgroup also determined the Swan River, downstream of the outlet of Swan Lake was a wild rice production water. However, the workgroup determined the main body of Swan Lake was not a wild rice production water.
43. The SEIS states that no adverse impacts to wild rice are anticipated from the proposed project. The modeling done for the SEIS showed a potential increase of 0.3 mg/L sulfate concentrations at year 15 of the proposed project to the main body of Swan Lake, which is not a wild rice production water. These are conservative estimates of impacts and account for uncertainties from other sources; measured impacts are expected to be lower.
44. Based on the results of the wild rice survey, the SEIS, and the workgroup decision, the MPCA determined the monitoring of ground water monitoring wells surrounding the tailings basin was adequate to identify any increases in loading from tailings basin seepage prior to the seepage reaching surface waters. The ground water and surface water monitoring requirements in the draft permit will be sufficient to identify and address incremental seepage and/or potential sulfate increases before seepage can affect wild rice.
45. In its comment, MCEA asserts that no permit should be issued because any potential discharge of sulfate would contribute to the violation of a water quality standard in Swan Lake, which does not currently meet the 10 mg/L standard for sulfate.² MCEA also states that the MPCA may only allow a discharge if such discharge is offset by a reduction elsewhere.³ However, the MPCA finds the

² *Friends of Pinto Creek v. U.S. EPA*, 504 F.3d 1007, 1012 (9th Cir. 2007) (no permit may be issued to a new discharger if the discharge will contribute to the violation of water quality standards).

³ *In re Cities of Annandale and Maple Lake NPDES/SDS Permit Issuance for the Discharge of Treated Wastewater*, 731 N.W.2d 502, 510 (Minn. 2007) (the court upheld MPCA's interpretation of 40 C.F.R. §122.4(i) as allowing offsets from another source in determining whether a new source will cause or contribute to the violation of water quality standards is reasonable and consistent with the purposes and principles of the Clean Water Act).

citations inapplicable to the facts at hand. Swan Lake is not a wild rice production water; therefore, Swan Lake is not subject to the 10 mg/L sulfate standard.

46. The tailings basin has no point source discharge and the MPCA has no evidence of a “discernible, confined, or discrete conveyance” to surface water through subsurface flow. As such, discharge from the tailings basin does not have reasonable potential to cause or contribute to violation of the 10 mg/L sulfate standard applicable to wild rice production waters. Therefore, it is not necessary or appropriate to calculate a water quality based sulfate effluent limit for the tailings basin. Notably, the conservative model predicting a potential 0.3 mg/L increase in sulfate levels at year 15 in the main body of Swan Lake would not be a violation of the sulfate standard; Swan Lake is not a wild rice production water and, therefore, is not subject to the 10 mg/L sulfate standard.

PROCEDURAL HISTORY

47. Pursuant to Minn. R. 7001.0100, a draft permit was prepared by MPCA staff for the proposed permit reissuance.
48. The public comment period for the draft permit began on June 15, 2012, and ended on July 16, 2012. During the 30-day comment period, the MPCA received one comment letter from the MCEA.
49. The MPCA prepared responses to all comments received during the 30-day public comment period. Comment letters received have been incorporated herein by reference as Appendix A to these findings. The MPCA responses to comments received are hereby incorporated by reference as Appendix B to these findings.
50. The MPCA Board concurs with the reasoning of MPCA staff in its Response to Comments document (Appendix B) and adopts the reasoning by reference on these findings.

PUBLIC COMMENTS AND MPCA RESPONSE

51. During the public comment period, the MPCA received one comment letter from the Minnesota Center for Environmental Advocacy (MCEA) regarding the draft permit.
52. The comment letter from MCEA contained a request for the MPCA Citizen’s Board to consider the reissuance of the NPDES/SDS permit.
53. Comments received from MCEA on the draft permit focused on potential discharge of sulfate to surface waters via deep seepage from the tailings basin; specifically, potential sulfate discharges to Swan Lake.
54. Minor comments to clarify discrepancies between the facility description and permit requirements were received via e-mail from the company during the public notice period.
55. Based on comments received from MCEA, no changes were made to the draft permit. Minor changes were made on Pages 8, 23 and 26 of the draft permit to clarify discrepancies.

56. Comments received on the draft permit, as well as the MPCA responses to comments, are detailed in Appendix B.

FINAL DETERMINATION OF WHETHER TO REISSUE THE PERMIT

57. In Minnesota, two types of water quality permits, the NPDES permit and the SDS permit, are issued. The NPDES permit is issued pursuant to a federal program established under the CWA. The SDS permit is issued pursuant to a Minnesota program established under Minn. Stat. ch. 115. When both permits are required, they are issued jointly as an NPDES/SDS permit. Essar Steel's permit is a NPDES/SDS Permit.

58. The MPCA finds there is jurisdiction for Essar Steel's NPDES/SDS permit reissuance in accordance with Minn. R. 7001.0100 which states:

Subpart 1. After a permit application is complete, the commissioner shall make a preliminary determination as to whether the permit should be issued or denied.

59. The MPCA has followed the procedures for the reissuance of the NPDES/SDS Permit according to the provisions in Minn. R. ch. 7001.

60. The MPCA's decision to reissue the NPDES/SDS Permit is governed by its permit rule, Minn. R. 7001.0140, which in part, states:

Subpart 1. Except as provided in subpart 2, the agency shall issue, reissue, revoke and reissue, or modify a permit if the agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or will undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the agency, and conditions of the permit and that all applicable requirements of Minnesota Statutes, chapter 116D, and the rules adopted under Minnesota Statutes, chapter 116D, have been fulfilled. For solid waste facilities, the requirements of Minnesota Statutes, section 473.823, subdivisions 3 and 6, must also be fulfilled.

CONCLUSIONS OF LAW


61. The MPCA is authorized and required to administer and enforce all laws relating to the pollution of the air and water of the state. Minn. Stat. chs. 115 and 116.
62. The MPCA has the authority to reissue this NPDES/SDS Permit. Minn. Stat. chs. 115 and 116 and Minn. R. chs. 7000 and 7001.
63. The MPCA has the authority to issue a SDS permit for the construction, installation, or operation of disposal systems. Minn. R. 7001.0020 subp. D.
64. Under the federal CWA, the MPCA is delegated the authority from EPA to issue NPDES permits. 33 U.S.C. § 1342; Minn. Stat. § 115.03, subd. 5.

65. A draft permit for the facility was prepared and placed on public notice in accordance with the requirements of Minn. R. 7001.0100 and public comments on the draft permit were addressed in accordance with MPCA rule requirements.
66. The requirements of Minn. R. ch. 7001, including Minn. R. 7001.0100 reissuance of a NPDES/SDS permit, have been met; including all applicable provisions of Minn. Stat. ch. 116D and Minn. R. ch. 4410. The MPCA determines that the Permittee will comply with all applicable state and federal pollution control statutes and rules administered by the MPCA, and the conditions of the reissued NPDES/SDS Permit.
67. The NPDES/SDS Permit contains effluent limitations and requirements that are protective of the environment and human health.
68. The findings of the MPCA justify reissuance of the NPDES/SDS Permit and do not support denial of the permit.
69. Areas where the potential for significant environmental effects may have existed have been identified and appropriate mitigation measures have been incorporated into the project design and permit. The project is expected to comply with all MPCA standards.
70. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

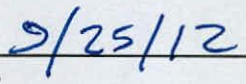
ORDER

The Minnesota Pollution Control Agency approves the reissuance of the National Pollutant Discharge Elimination System/State Disposal System Permit No. MN0068241 for the Essar Steel Minnesota, LLC mining area and tailings basin.

IT IS SO ORDERED



Commissioner John Linc Stine
Chair, Citizens' Board
Minnesota Pollution Control Agency



Date