

Subject: Mesabi Nugget Proposed Variance - NPDES/SDS permit MN0067687

Date: Monday, December 10, 2012 10:50:16 AM CT

From: Paula Maccabee

To: Pfeifer.david@epa.gov

CC: Wester.barbara@epa.gov, Kevin Pierard, Holst.Linda@epamail.epa.gov

Hello, David:

I was reviewing some of my notes in the Mesabi Nugget file the other day and found a discussion earlier this fall where it seemed that you had stated that there was no necessary time limit for the proposed variance, since the NPDES permit requirements followed from the variance rather than variance being limited to the five-year time frame for the NPDES permit.

I may have misunderstood what you said in this phone call, but my reading of the law suggests that there is a clear 5-year limit on any proposed variance. The Mesabi Nugget discharges to Second Creek, which is part of the Partridge River and St. Louis River watersheds of the Lake Superior Basin and is governed by 40 C.F.R. §132, Appendix F. Procedure 2 of Appendix F, *Variances from Water Quality Standards for Point Sources* provides as follows:

B. Maximum Timeframe for Variances. A WQS variance shall not exceed five years or the term of the NPDES permit, whichever is less. A State or Tribe shall review, and modify as necessary, WQS variances as part of each water quality standards review pursuant to section 303(c) of the CWA.

I'd appreciate learning your thoughts about the applicability of this 5-year maximum time limit to the Mesabi Nugget proposed variance.

I am also interested in your current thoughts about the economic issues raised in our November 8, 2012 letter, particularly the lack of financial information regarding Steel Dynamics, Inc. and the lack of data in the record regarding the likely actions of Steel Dynamics if a pollution control investment is required.

I look forward to hearing from you.

Sincerely,

Paula Maccabee, Esq.
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