

Duluth News Tribune

Published December 17, 2012, 01:23 PM

Minnesota appeals court backs wild rice standard

In a 14-page decision released today, the appellate court said it lacked jurisdiction in the case but that it still affirmed a state district court decision in May to dismiss the case.

By: [John Myers](#), Duluth News Tribune

The Minnesota Court of Appeals has affirmed a lower-court ruling that upholds the state's limit on sulfate in wild rice waters.

In a 14-page decision released today, the appellate court said it lacked jurisdiction in the case but that it still affirmed a state district court decision in May to dismiss the case.

The original lawsuit was filed by the Minnesota Chamber of Commerce in 2010 asking the court to throw out the state's 1973 sulfate rule, claiming it was unfounded, based on poor science and overly restrictive, especially for the state's mining industry.

But in May a district court judge disagreed and threw the case out, saying the state sulfate limit of 10 parts per million was sound.

The Chamber appealed, but today the appeals court decision said there were no grounds for any ruling on the merits of the sulfate standard because the Chamber and its members have not been wronged — the state has not taken any measures against mining companies to enforce the sulfate limit.

The appeals court decision also notes that the state legislature already has addressed the issue by providing funding for a University of Minnesota study on the effects of sulfate on rice and ordering the Minnesota Pollution Control Agency to develop new sulfate regulations, if needed, based on that research.

Thaddeus Lightfoot, attorney for the Chamber in the proceedings, said no decision has been made on whether to ask the Minnesota Supreme Court to hear the case.

Paula Maccabee, attorney for the group Water Legacy, said the appeals court decision was another victory for the sulfate standard.

"The Appeals Court adopted an argument we made to begin with: that there's no basis for a lawsuit because there was never any action against the Chamber," Maccabee said. "But (the appellate decision) also upheld the court's decision that the sulfate limit was valid, so we've won on two points now."

Sulfates are ions that can come from decaying plants and animals as well as some industrial processes such as mine discharges, mine stockpiles and waste piles, tanneries, steel mills, pulp mills, sewage-treatment plants and textile plants. High sulfate levels are known to damage plants, possibly by damaging seeds or limiting the plant's uptake of nutrients.

But it's not completely clear how much sulfate is too much for wild rice. Minnesota generally has seen declining wild rice stands, but there may be no single culprit.

The 10-milligram limit also was the subject of a 2011 state law that attempted to block enforcement of the state regulation. But the federal Environmental Protection Agency overruled state lawmakers, saying the sulfate limit had to be enforced under the federal Clean Water Act unless the state could prove it wasn't necessary.

While the current sulfate limit remains in place, pending any changes, state regulators have made no effort to enforce the old rule, waiting for research to conclude.

Researchers are using state funding to test the impact of sulfate on wild rice, including at the University of Minnesota Duluth. The PCA is expected to use the results of those studies to set a new limit if research concludes that the 10-parts-per-million level is not valid. Preliminary results might be available next year.

The results are important for the mining industry because discharges from several taconite mines are believed to exceed the current state limit.

Tags: [news](#), [minnesota](#), [environment](#), [courts](#)

More from around the web

- [Airstream Unveils Their New Land Yacht Concept \(JustLuxe\)](#)
- [Finally Chemotherapy Game Changer for Stage 4 Cancer \(Envita\)](#)
- [McDonald's Staffers See Red Over Prof's Digital Eyewear \(BusinessWeek\)](#)
- [10 Beer Tips You Really Need to Know \(Lifescript.com\)](#)
- [10-Year-Old Girl Goes Missing After Flying Alone on United Airlines \(Everyday Family\)](#)
- [15 Foods to Avoid with High Blood Pressure \(HealthCentral.com\)](#)
- [10 Skiing Pictures That Will Make Your Heart Stop \(BuzzFeed\)](#)
- [What You May Not Know About Buffet Food \(Lifescript.com\)](#)
- [Man Shot on Atlantic Avenue \(DNAinfo\)](#)
- [Check Out the Upgrades at Top Ski Resorts this Season! \(Away.com\)](#)

[?]