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November 21, 2012

Ms. Tamara Cameron ([tamara.e.cameron@usace.army.mil](mailto:tamara.e.cameron@usace.army.mil))

Chief, St. Paul District Regulatory Branch

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**RE: Modification of Department of the Army Permit 81-172-13**

(United Taconite Tailings Basin) Public Notice Issued: October 23, 2012

Dear Ms. Cameron, Mr. Smith:

These comments are submitted on behalf of WaterLegacy a non-profit 510(c)(3) organization formed to protect Minnesota's water resources and the communities that rely on them.

**WaterLegacy Believes Suspension of Permit 81-172-13 is in the Public Interest**

WaterLegacy believes that the most appropriate action in this matter would be to suspend U.S. Army Corps of Engineers (USACE) permit 81-172-13 governing the United Taconite (UTAC) tailings basin, including potential expansion of tailings basin 3, which would impact at least 1,300 acres of wetlands and streams. The permit should be suspended on the grounds, as provided in section j. of the permit itself, "That this permit may be summarily suspended, in whole or in part, upon a finding by District Engineer that immediate suspension of the activity authorized herein would be in the general public interest." Suspension of the 81-172-13 permit in the public interest is explicitly allowable pursuant to 33 C.F.R. §320.4(a)(1).

Grounds for suspension include the obsolescence of the permit under today's conditions and today's knowledge as well as today's laws, the timing of potential construction of tailings basin 3 which is far enough into the future to permit an orderly process of consideration of the impacts of tailings basin expansion in a new permit process and the inadequacy of the prior record in considering alternatives, impacts or mitigation of adverse effects resulting from destruction of wetlands and streams and construction of tailings basin 3.

The USACE, in its Decision Memorandum of May 8, 2012 explained that the conditions of permit 81-172-13 are no longer adequate and that both factual circumstances and federal law

and policy pertaining to wetlands have changed since the permit was issued:

However, work has not begun on the third and final tailings basin (tailings basin 3), which would impact approximately 1,300 acres of bog (Type 8) wetlands and adjacent waterways. Since issuance of this permit, circumstances in the permit area have changed, national policy regarding wetland mitigation has changed and our regulations in that regard have been revised substantially, and therefore the permit conditions are no longer adequate.<sup>1</sup>

WaterLegacy believes that the unusual 60-year term of the permit issued to Eveleth Taconite Company (EVTAC) in 1982 -- with an expiration date of December 31, 2042 -- underscores the public interest in suspending this obsolete permit. In addition to changes in the law regarding wetlands replacement, during the past 30 years there have been changes in the St. Louis River ecosystem, many of which have resulted in cumulative wetlands destruction impacts. There has also been a significant change in scientific knowledge regarding tailings basin discharge impact. For example, the Final EIS for the tailings basin expansion, prepared in 1976, states, "The fact that the lake chain has an outlet to the St. Louis River satisfies any concern regarding a buildup over time of heavy metals."<sup>2</sup> Such an assertion would be considered ignorant and irresponsible today, when impacts of bioaccumulation of toxic metals are better understood and the release of such toxic metals is constrained by Great Lakes Initiative treaties, statutes and regulations.

In addition, providing life support to an aged and inadequate permit would impede consideration of alternatives to the proposed project and provide an unintelligible public process.

The record demonstrates that the permit for tailings basin 3 has never undergone rigorous environmental review. The USACE finding that the issuance of a permit to destroy 2,200 acres of wetlands "will not constitute a major Federal action" precluded a federal EIS when the permit was issued.<sup>3</sup> In its 1981 public notice for permit 81-172-13, the Army Corps' explained that USACE had conducted its preliminary environmental review "based principally on the information provided by the permit applicant."<sup>4</sup> The State "EIS" used by the USACE in evaluating the permit application did not consider substantive alternatives. As explained in the USACE Public Notice, "In writing their Environmental Impact Statement (EIS) the Minnesota Department of Natural Resources and the Minnesota Pollution Control Agency did not consider the No Action, Deferment of Action, and Relocation of Facilities alternatives."<sup>5</sup> Environmental review conducted prior to issuance of permit 81-172-13 was

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<sup>1</sup> USACE, Decision Memorandum (May 8, 2012), p. 1

<sup>2</sup> MDNR and MPCA, Final Environmental Impact Statement on Ogelby Norton Planned Expansion Project (January 1976), p. 36

<sup>3</sup> USACE, Finding of No Significant Impact for Army Permit 81-172-13, Nov. 18, 1981.

<sup>4</sup> USACE, Notice of Application for Army Permit 81-172-13, Feb. 17, 1981, p. 5

<sup>5</sup> *Id.*, p. 4. See also MDNR and MPCA, Draft Environmental Impact Statement on Ogelby Norton Planned Expansion Project (November 1975) Expansion of Thunderbird Mine, p. 307, "However, because of the circumstances under which the EIS was ordered, namely construction of the facilities was allowed to continue, it is evident that the analysis of certain alternatives is meaningless. Consequently, alternatives such as: no action,

quite limited, and would not constitute an “EIS” under today’s standards.

The draft EIS on which the Army Corps permit was based stated that the bog on which the tailings basin would be constructed had been surveyed in 1963 and found to represent approximately 10 percent of the state's resource of high quality accessible sphagnum peat.<sup>6</sup> However, the EIS provided no analysis of ecological or water quality effects of filling or degrading these wetlands. None of the public interest functions that must now be considered under law, pursuant to 33 C.F.R. §320.4(a)(2), were discussed in environmental review documents prior to issuance of permits for thousands of acres of destruction of wetlands and streams in the St. Louis River watershed of the Lake Superior Basin.

Given the consensus that law and factual circumstances in the area have changed since 1982 so that the existing permit is inadequate, the lack of substantive environmental review of the Ogelby Norton/EVTAC/UTAC tailings basin expansion at any pertinent time, and the years now available for careful review and decision-making before tailings basin 3 would need to be constructed, WaterLegacy believes that the most appropriate course of action would be to suspend the aged permit and provide UTAC with an opportunity to file a new application for a Section 404 permit. Suspension would best protect wetlands resources and the public interest as well as provide a clear and logical path for project review.

#### **WaterLegacy Could Support Permit Modification with Rigorous NEPA Review**

Absent a decision to suspend permit 81-172-13, WaterLegacy could support the Army Corps’ proposal to modify the permit and require compensatory mitigation for the unavoidable impacts to wetlands for the construction of tailings basin 3. WaterLegacy agrees with the USACE that such a modification requires tribal consultation and supplemental environmental review of at least the following issues: wetlands loss mitigation and replacement of wetlands and wetland functionality and potential effects to the Canada lynx from construction of tailings basin 3.

WaterLegacy greatly appreciates the USACE’s concern regarding Minnesota’s approach to wetlands mitigation, as reflected in the USACE’s Decision Memorandum of May 8, 2012:

The DNR admittedly lacks technical expertise in this area and past experiences on mining projects illustrate fundamental differences between the two agencies with respect to what constitutes suitable replacement for lost aquatic functions. In several recent cases, the OP-R staff has determined that proposed or constructed mitigation sites have not provided adequate mitigation and has required additional or alternative compensation. . .

OP-R Staff will continue to work with UTAC and the MnDNR in the identification of wetland and stream mitigation options in Bank Service Area I (St. Louis River Watershed).<sup>7</sup>

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deferment of action, and relocation of facilities will not be addressed in this report.”

<sup>6</sup> MDNR & MPCA, Draft EIS, *supra*, p. 75

<sup>7</sup> USACE Decision Memorandum, *supra*, p. 2.

WaterLegacy concurs with the USACE's determination that suitable replacement of wetlands must replace lost aquatic functions within the St. Louis River watershed. Proposed or constructed mitigation sites that do not restore these in-watershed functions would not provide adequate mitigation for any wetlands unavoidably impacted by the construction of tailings basin 3.

However, WaterLegacy believes that if a modification is implemented rather than a suspension of the existing permit, the tailings basin expansion and permit modification require an environmental impact statement as a major Federal action pursuant to 42 U.S.C. § 4332(2)(C). Based on today's scientific and technological knowledge, there can be no dispute that directly impacting 1,300 acres of spruce bog and sphagnum peat has the potential for significant ecological and water quality environmental impacts. The construction of tailings basin 3 also has the potential for significant adverse effects on the environment due to indirect and cumulative impacts of wetlands and stream destruction in the St. Louis River watershed and the Lake Superior Basin. Tailings basin construction on top of peat creates a risk of instability and catastrophic failure of the tailings basin, resulting in additional potential for significant environmental effects.

Further, as explained below, discharge monitoring reports from the existing UTAC tailings basin demonstrate that UTAC tailings basin expansion into another 1,300 acres of wetlands and streams has the potential for significant environmental impacts as a result of violation of water quality standards and degradation of surface water and groundwater affecting aquatic life, biotic communities and public health. Along with addressing questions of tailings basin design and wetlands mitigation or replacement, an EIS is required to support appropriate conditions that would allow construction of tailings basin 3 to meet requirements of Section 404(c) and Section 401 of the Clean Water Act.

Even if the USACE were to solipsistically characterize the proposed federal action as the modification of an existing permit to provide for wetlands replacement, WaterLegacy believes that an environmental impact statement is warranted. Federal rules clearly provide that the term "significantly" as used in the National Environmental Policy Act considers context and intensity, not just potential harm. Impacts may be beneficial as well as adverse and "A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial." 40 C.F.R. §1508.27(b)(1).

In requesting that rigorous environmental review of water quality impacts of the proposed UTAC tailings basin 3, WaterLegacy would call to the attention of potential reviewing agencies as well as the USACE that the existing UTAC tailings basin violates applicable water quality standards, threatens aquatic ecosystems and impacts public health. Expansion of the tailings basin requires an environmental impact statement to analyze, avoid, minimize and mitigate these effects.

Discharge monitoring reports at the existing UTAC tailings basin show repeated exceedances of Minnesota's 500 milligrams per liter (mg/L) water quality standard for total dissolved

solids and Minnesota's standard for specific conductance of 1,000  $\mu\text{mhos/cm}$ . Total dissolved solids measures in summer months during the past five years clustered in the range of 700 to 800 mg/L in surface water monitoring at the Twin Lakes (SW003) and Clover Lake (SW002) surface water monitoring stations, with readings as high as 950 mg/L at one of the largest seepage points of the tailings basin (SD001), that discharges from 4000 to 20,000 gallons per day to Little Tony Lake and adjacent wetlands and to an unnamed creek tributary to the St. Louis River.<sup>8</sup> Total dissolved solids may contain high levels of salts that affect aquatic toxicity, and specific conductivity above 500  $\mu\text{hos/cm}$  has been identified by the USEPA to have the potential to impair aquatic life, including fish and macroinvertebrates, in receiving waters.<sup>9</sup>

Discharge monitoring reports also show high levels of sulfate discharge from the existing UTAC tailings basin. Minnesota limits sulfates to 10 milligrams per liter in waters used for the production of wild rice. Minn. R. 7050.0224, Subp. 2. In its 2008 inventory of wild rice waters, the Minnesota Department of Natural Resources identified Perch Lake (69068800) as a wild rice lake with more than 40 percent of the lake's acreage covered with wild rice.<sup>10</sup> Surface water monitoring at Perch Lake under the NPDES/SDS permit for the existing UTAC tailings basin during the past few years has shown consistent exceedances of the wild rice sulfate standard ranging from a low of 72.3 milligrams per liter (July 2008) to 120 mg/L in July 2010, often more than an order of magnitude above Minnesota's wild rice sulfate standard. Major seepage from the UTAC tailings basin discharging as much as 20,000 gallons per day (SD001) has consistently exceeded 300 mg/L in sulfate concentration from 2000 through 2012. Future discharge from the tailings basin 3 expansion could impact nearby Perch (69068800), Stone (69068600), East Stone (69063800) and Anchor Lake (69064100), each of which has been identified by MDNR as a wild rice lake,<sup>11</sup> and would contribute to cumulative impacts on downstream wild rice in the St. Louis River.

In addition, sulfate discharge from the expansion of the UTAC tailings basin has the potential to increase mercury methylation and bioaccumulation in fish tissue in receiving lakes and the St. Louis River, exacerbating serious public health risks to the fetus, infants and children in Minnesota. Many reaches of the St. Louis River are impaired for aquatic consumption due to

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<sup>8</sup> DMRS from 2000 to 2012 for MN0052116 United Taconite Fairlane/Tailings Basin were obtained from the MPCA. Locations of outfalls and surface water monitoring are taken from United Taconite Fairlane/Tailings Basin NPDES/SDS permit MN0052116, minor permit modification Feb. 1, 2012, pp. 4-5.

<sup>9</sup> See USEPA What is conductivity and why is it important? "Studies of inland fresh waters indicate that streams supporting good mixed fisheries have a range between 150 and 500  $\mu\text{hos/cm}$ . Conductivity outside this range could indicate that the water is not suitable for certain species of fish or macroinvertebrates."

<http://water.epa.gov/type/rs/monitoring/vms59.cfm> and USEPA. A FIELD-BASED AQUATIC LIFE BENCHMARK FOR CONDUCTIVITY IN CENTRAL APPALACHIAN STREAMS (FINAL REPORT) EPA/600/R-10/023F, 2011 available at [http://cfpub.epa.gov/si/si\\_public\\_record\\_report.cfm?dirEntryId=233809](http://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=233809) last visited Nov. 20, 2012.

<sup>10</sup> MDNR, *Natural Wild Rice in Minnesota*, A Wild Rice Study document submitted to the Minnesota Legislature by the Minnesota Department of Natural Resources February 15, 2008, p. 81, available at [http://files.dnr.state.mn.us/fish\\_wildlife/wildlife/shallowlakes/natural-wild-rice-in-minnesota.pdf](http://files.dnr.state.mn.us/fish_wildlife/wildlife/shallowlakes/natural-wild-rice-in-minnesota.pdf) last visited on Nov. 20, 2012.

<sup>11</sup> MDNR, *Natural Wild Rice in Minnesota*, *supra*, pp. 79, 81. The Great Lakes Indian Fish and Wildlife Commission has also identified Round Lake (69004900) as a wild rice lake. See Exhibit 1 attached.

mercury in fish tissue.<sup>12</sup> The Minnesota Department of Health reported in February of 2012 that one in 10 babies along Minnesota's North Shore are born with unhealthy levels of mercury in their bodies. (J. Marcotty, High levels of mercury found in North Shore babies, *Star Tribune*, Feb. 2, 2012). Recent scientific literature confirms that levels of bioavailable methylmercury in the aquatic food chain are dependent on sulfate loading to peatlands as well as background emissions of mercury.<sup>13</sup>

The St. Louis River -- downstream receiving waters for sulfates from the UTAC tailings basin -- is the largest tributary to Lake Superior and contains estuaries critical to fishing in Lake Superior. Its waters and fish are protected from toxic mercury contamination by international treaty as well as by federal law. The St. Louis River and its estuaries also provide sustenance to members of Indian tribes, whose rights to fish, hunt and gather are protected by treaties between the tribes and the United States. The Fond du Lac and Grand Portage Bands of the Lake Superior Chippewa, whose members are disproportionately impacted by destruction of wild rice in the St. Louis River watershed and elevated levels of mercury contamination of fish in the St. Louis River and Lake Superior, are environmental justice communities that would be adversely affected by the UTAC tailings basin expansion. Increased methylmercury contamination resulting from sulfate discharge would, thus, adversely impact fisheries, wildlife that consume fish in their diets, public health and environmental justice.

Expansion of the UTAC tailings basin also has the potential to cause significant harm to drinking water, risking the intellectual capacity of the next generation of Minnesota children. In May 2012, after an investigation including USEPA and international researchers, the Minnesota Department of Health concluded that a health risk limit for manganese in drinking water of 300 micrograms per liter ( $\mu\text{g/L}$ ) was needed to protect adults and children from neurological damage and a health risk limit (HRL) of 100  $\mu\text{g/L}$  was needed to protect bottle-fed infants from neurological damage.<sup>14</sup> Discharge monitoring reports from the existing UTAC tailings basin demonstrate that manganese levels routinely exceed the Minnesota HRL and the USEPA Lifetime Health advisory for manganese by more than an order of magnitude and on at least two occasions have exceeded health-based limits for manganese by more than two orders of magnitude. Manganese levels are measured at the tailings basin in a ditch monitoring station before the flow enters Hammer Lake (WS002). From 2000 through 2012, monitored levels have usually ranged from 1000 to 7000  $\mu\text{g/L}$ , with one report of 11,700  $\mu\text{g/L}$  of manganese (July 2002) and another of 26,800  $\mu\text{g/L}$  of manganese (November 2005). The existing NPDES/SDS permit for the tailings basin does not limit manganese discharge to protect surface water or groundwater aquifers.<sup>15</sup>

<sup>12</sup> Minnesota's Impaired Waters and TMDLs List 2012 <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/minnesotas-impaired-waters-and-tmdls/impaired-waters-list.html> last visited on Nov. 20, 2012

<sup>13</sup> See e.g. J.K. Coleman Wasik et al., "Methylmercury Declines in a Boreal Peatland When Experimental Sulfate Deposition Decreases," *Environ. Sci Technol.*, May 2012, p. F "These biotic results provide direct evidence that increasing/decreasing sulfate loading to peatlands translates into significant increases/declines in biotic mercury concentrations."

<sup>14</sup> See MDH, Manganese: Tiered Health Based Guidance for Water available at <http://www.health.state.mn.us/divs/eh/risk/guidance/gw/manganese.html> last visited Nov. 20, 2012. The applicable EPA Lifetime Health Advisory for manganese is 300  $\mu\text{g/L}$ .

<sup>15</sup> United Taconite Fairlane/Tailings Basin NPDES/SDS permit MN0052116, minor permit modification Feb. 1, 2012, p. 11 (monitor only).

WaterLegacy requests that a supplemental EIS analyze critical issues pertaining to water resources and alternatives to avoid, minimize and mitigate adverse environmental impacts:

- Impacts on 1,300 acres of wetlands and streams *directly* affected by the proposed UTAC tailings basin expansion, including the nature and functionality of water resources within the St. Louis River watershed and Lake Superior Basin.
- *Indirect* impacts of the UTAC tailings basin expansion on St. Louis River watershed wetlands and streams based on experience at the existing UTAC tailings basin and other nearby tailings basins, such as the Minntac tailings basin.
- *Cumulative* impacts of the UTAC tailings basin expansion on wetlands resources, wetlands functionality, water quality and downstream ecosystems resulting from multiple developments of mining facilities, waste rock piles and tailings basins impacting the St. Louis River watershed and Lake Superior Basin.
- Alternatives to avoid, minimize and mitigate direct and indirect impacts of the UTAC tailings basin expansion on wetlands and streams within the St. Louis River watershed.
- Appropriate replacement within the St. Louis River watershed of wetlands with comparable type and functionality for any wetlands that are unavoidably impacted by tailings basin expansion.
- Risks of tailings basin instability and catastrophic failure, particularly as it relates to construction on peat bogs.
- Size, location and design of tailings basin 3 to avoid risks of instability and catastrophic failure.
- Impacts of tailings basin expansion on surface water and groundwater quality impacting fish and aquatic life, wild rice and plant ecosystems, wildlife and public health.
- Alternatives, designs and treatment measures to avoid, minimize and mitigate impacts of tailings basin expansion on water resources protected by the Clean Water Act.

**WaterLegacy Believes UTAC Tailings Basin Expansion Would Violate Clean Water Act**  
Based on monitoring reports from the existing UTAC tailings basin as well as experience at other tailings basins, WaterLegacy believes that, absent rigorous environmental review and development of measures to avoid, minimize and mitigate water quality impacts, the UTAC tailings basin 3 expansion would violate the Clean Water Act.

Regulations implementing the Clean Water Act under 40 C.F.R. Part 231 would apply whether the USACE is considering suspending or modifying Army permit 81-172-13. “The regulations set forth in this part are applicable whenever the Administrator is considering whether the specification of any defined area as a disposal site [for dredged or fill material] should be prohibited, denied, restricted, or withdrawn.” 40 C.F.R. §231.1(c).

The record in the Public Notice issued on October 23, 2012 as well as the Decision Memorandum of May 8, 2012 and its July 25, 2012 cover memorandum to Col. Price establish that the USACE has considered suspension of permit 81-172-13, which would withdraw 1,300 acres of wetlands from use as a tailings basin disposal site, and is currently considering restricting such use of wetlands to require additional permit conditions.

Once review under the Clean Water Act is triggered, the USEPA must determine whether the disposal site use of the wetlands and stream areas under consideration would result in an “unacceptable adverse effect”, defined as follows:

Unacceptable adverse effect means impact on an aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supplies (including surface or ground water) or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the section 404(b)(1) guidelines (40 CFR part 230). 40 C.F.R. §231.2(e)

The relevant portions of the Section 404(b)(1) guidelines in the Code of Federal Regulations provide “No discharge of dredged or fill material shall be permitted if it: (1) Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard.” 40 C.F.R. §230.10 (b)(1). Federal regulations further provide that “no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States.” 40 C.F.R. §230.10(c). Effects contributing to significant degradation considered individually or collectively include:

- (1) Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites.
- (2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;
- (3) Significantly adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy. 40 C.F.R. §230.10(c).

In addition to USEPA authority to determine whether discharge of dredge or fill material into wetlands contributes to violation of water quality standards or degradation of waters of the

United States, the State of Minnesota and Indian tribal governments have authority under Section 401 of the Clean Water Act to determine if the proposed UTAC tailings basin 3 expansion will result in Clean Water Act violations within their applicable jurisdictions.

Based on the massive direct impacts on wetland and stream acreage that would result from UTAC tailings basin 3 and the history of discharge of pollutants at the existing UTAC tailings basin, WaterLegacy believes that the UTAC tailings basin expansion would have “unacceptable adverse effects” violating the Clean Water Act. The expansion would result in violation of Minnesota water quality standards limiting sulfates in wild rice waters and limiting total dissolved solids and conductivity that impact aquatic life and aquatic ecosystems. The expansion would increase methylmercury in fish, adversely affecting wildlife and human health and would significantly degrade groundwater and surface water for use as drinking water, also impacting public health.

Only a rigorous EIS review of adverse impacts on water quality and appropriate design changes, permit conditions, and alternatives such as containment and treatment of tailings basin seepage have the potential to prevent unacceptable adverse effects from the UTAC tailings basin 3 expansion.

In closing, WaterLegacy would prefer a procedure whereby the existing inadequate Army permit 81-172-13 would be suspended and UTAC given an opportunity to apply for a new Section 404 permit for its tailings basin 3 expansion. This procedure would provide the most intelligible process for the public and ensure a step-by-step analysis of potential environmental impacts and alternatives to avoid, minimize and mitigate such impacts.

Absent a determination to suspend the permit, WaterLegacy could support the modification of the permit to provide compensatory wetlands mitigation and environmental review. However, rather than limiting review to an environmental assessment of the direct impacts on wetlands and potential impact on lynx, WaterLegacy would request a supplemental EIS to analyze the above issues and also to analyze indirect and cumulative wetlands and stream impacts; location, type and functionality of replacement resources; risks and remedies related to tailings basin instability; and impacts, alternatives and mitigation related to the impacts of tailings basin 3 on ground water, surface water, aquatic life, aquatic ecosystems, wildlife and public health. Such a comprehensive EIS review and appropriate design and mitigation measures are needed to avoid unacceptable adverse effects of the UTAC tailings basin expansion in violation of the Clean Water Act.

WaterLegacy would request, pursuant to the Freedom of Information Act, that the USACE promptly provide us with copies of any letters and comments received by the Army Corps pertaining to this Notice or permit review under Section 404(c) or Section 401 of the Clean Water Act, including those from any federal, state or tribal agency. Any such documents can be provided in electronic form to minimize costs, and WaterLegacy agrees to pay up to the amount of fifty dollars for costs of providing such materials. We can be reached to respond to any questions at 651-646-8890.

WaterLegacy would welcome the opportunity to have further discussions regarding this matter. Please feel free to call me if you have any questions or would request copies of any documents referenced in this comment. Thank you for your consideration.

Respectfully submitted,



Paula Goodman Maccabee  
Counsel for WaterLegacy

Exhibit Attached

cc: Kenneth Westlake, NEPA Compliance, USEPA Region 5 ([Westlake.Kenneth@Epa.gov](mailto:Westlake.Kenneth@Epa.gov))  
Tinka Hyde, Water Division Director, USEPA Region 5 ([hyde.tinka@epa.gov](mailto:hyde.tinka@epa.gov))  
John Linc Stine, MPCA Commissioner ([John.Stine@state.mn.us](mailto:John.Stine@state.mn.us))  
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Margaret Watkins, Grand Portage Band of Chippewa ([watkins@boreal.org](mailto:watkins@boreal.org))

# Hydrography at the UTAC Facility

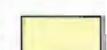
Exhibit 1

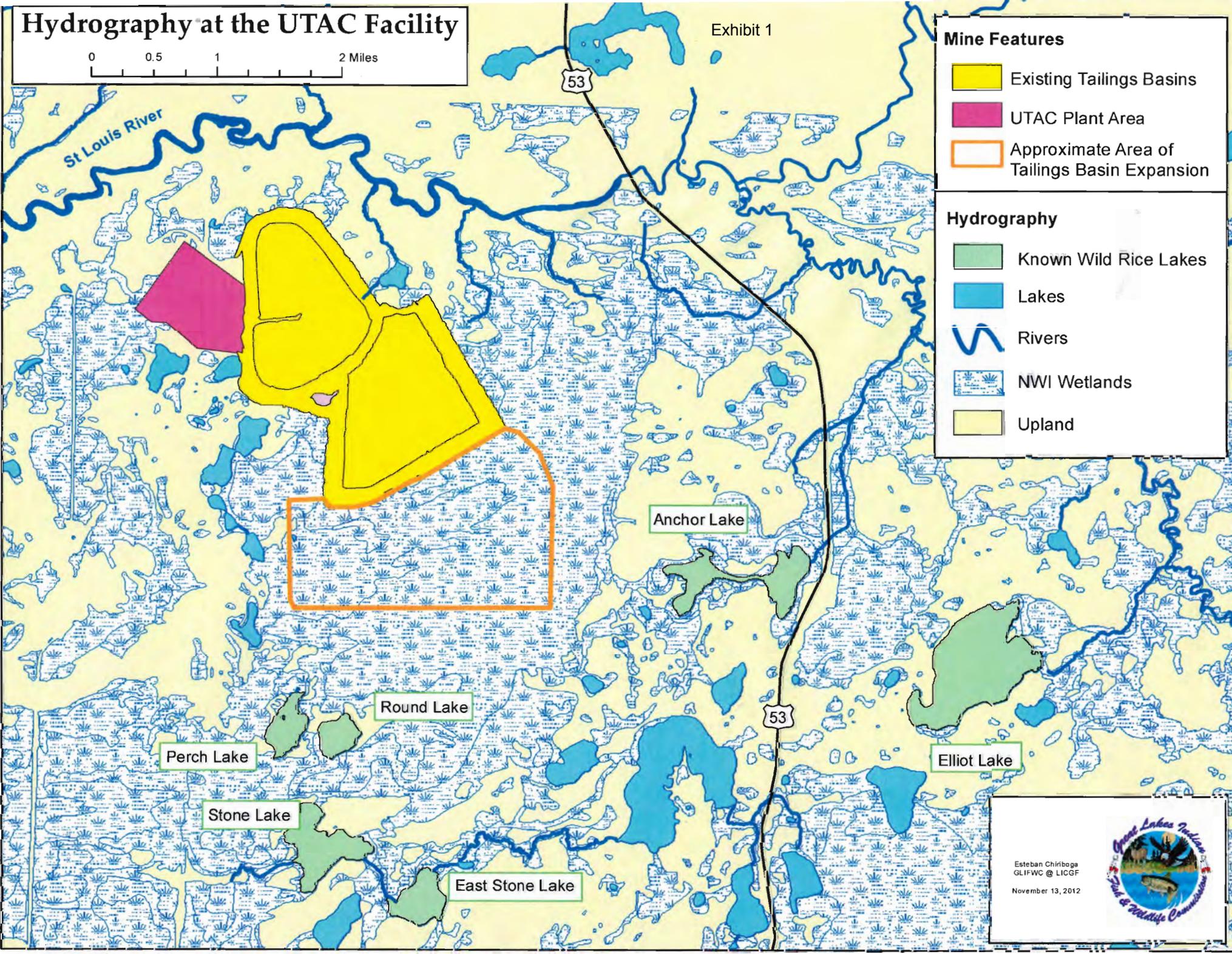
0 0.5 1 2 Miles

## Mine Features

-  Existing Tailings Basins
-  UTAC Plant Area
-  Approximate Area of Tailings Basin Expansion

## Hydrography

-  Known Wild Rice Lakes
-  Lakes
-  Rivers
-  NWI Wetlands
-  Upland



Esteban Chiriboga  
GLIFWC @ LICGF  
November 13, 2012

