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District court upholds pollution rule to protect wild rice

Article by: JOSEPHINE MARCOTTY, Star Tribune Updated: May 11, 2012 - 10:43 PM

The Chamber of Commerce had argued that the state's pollution standard was vague and not applied uniformly.



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Ron Brodigan and his son Steve Brodigan posed on a dock in Sand Lake, which is full of wild rice. They have fought copper mining in northern Minnesota because of its potential environmental effects, including the threat of pollution to wild rice.

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A bitterly contested rule established decades ago to protect Minnesota's wild rice from pollution that comes primarily from mining has been upheld by a Ramsey County District Court.

The Minnesota Chamber of Commerce sued the Minnesota Pollution Control Agency in 2010 at the height of a contentious argument over the state's iconic plant, which has become a potent symbol in the growing controversy over the potential environmental impact of new mining projects in northern Minnesota. The controversy has pulled in environmental groups, industry, Indian tribes, the U.S. Environmental Protection Agency, and even the Minnesota Legislature.

The chamber, the state's largest business lobbying group, accused the PCA of holding mining companies to a different standard from

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other industries on how much sulfate they can discharge into lakes and streams. It also argued that the sulfate rule was vague and that the PCA applied it capriciously.

But Ramsey County Judge Margaret Marrinan dismissed those claims Thursday, saying that the state's standard is in line with the federal Clean Water Act and that the state uses it appropriately.

"MPCA's application of the wild rice sulfate rule is reasonably related to achieving the legitimate goal of protecting Minnesota's environment," she wrote in her opinion.

Mike Robertson, spokesman for the Minnesota Chamber, declined to comment because he had not seen the opinion, he said. He said he did not know if the chamber will appeal the decision. State officials did not immediately respond to a request for comment.

Paula Maccabee, the attorney for WaterLegacy, an environmental group that joined in the case, said the decision makes it clear that industry must comply with water quality standards.

"Hopefully, the industry will focus on what they need to do to clean up their pollution, instead of fighting about the standard," she said.

Some taconite mining companies are already trying to reduce sulfate runoff from old pits and other processes, and companies that have proposed new copper mines have said they expect to meet the state's standard for sulfate.

Sulfates, a naturally occurring mineral salt, is toxic to wild rice, but not to people, animals or plants. It leaches from waste rock and tailings from mining.

A long-standing dispute

In the 1970s, the state set a standard of 10 milligrams per liter in order to protect naturally occurring stands of wild rice in northern lakes and streams from mining operations, water treatment plants and other industries. But it was rarely enforced.

Then, in February 2010, the EPA sharply criticized the PCA's environmental review of the PolyMet Mining Co.'s proposed \$600 million copper-nickel mine on the Iron Range, citing as one reason the state's disregard for its own sulfate standard. A second environmental review of the project is now underway that will include its potential impact on wild rice.

After that, the state began to make it clear to other companies that they would have to abide by the standard as well, and it launched a review of whether the rule was scientifically sound. That set the stage for the chamber's lawsuit in December 2010. The chamber questioned the science behind the 10-milligram standard, and said that industry should not be required to pay millions of dollars in environmental costs that might prove to be pointless once the PCA's review was complete.

Environmentalists and tribal governments, however, said that the existing standard should be enforced until a new one is established through science.

Even the Legislature got involved last year when it attempted to pass a new law that would loosen the sulfate standard in advance of the scientific review. But the EPA sent the Legislature a sharp rebuke, reminding it that the state had to follow the federal Clean Water Act, which requires scientifically valid standards.

Instead, the Legislature passed a law requiring that the PCA form an advisory group to oversee a scientific study of sulfates and wild rice. That is now underway, but is not expected to be complete for a year at least.

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