

February 12, 2009

Ms. Anna Miller
United States Environmental Protection Agency Region 5
77 West Jackson Boulevard
Mail Code E-19J
Chicago, Illinois 60604

Mr. Jon Ahlness
United States Corps of Engineers St. Paul District
Army Corps of Engineers Centre
190 Fifth Street East
St. Paul, Minnesota 55101-1638

Mr. Jim Sanders
United States Forest Service
Superior National Forest Supervisor
8901 Grand Avenue Place
Duluth, Minnesota 55808

Mr. Stuart Arkley
Minnesota Department of Natural Resources
500 Lafayette Road, Box 25
St. Paul, MN 55155.

RE: NorthMet Project Complete Preliminary Draft Environmental Impact Statement
December 2008

Dear Ms. Miller, Mr. Ahlness, Mr. Sanders, Mr. Arkley:

This letter is submitted on behalf of WaterLegacy, an organization recently founded to protect Minnesota water resources and the communities who depend on them. WaterLegacy has particular concerns about the sulfide metallic strip mine and processing plant proposed by PolyMet to be located in the Hoyt Lakes area of northeastern Minnesota ("Project").

We greatly appreciate having had the opportunity to review the December 2008 Complete Preliminary Draft Environmental Impact Statement ("CPDEIS") document for the PolyMet Project and the efforts of responsible and cooperating agencies to date in connection with this matter.

Based on our review of this document, the CPDEIS is inadequate to provide a detailed statement of the environmental impacts of the proposed Project and the irreversible and irretrievable commitments of resources which would be involved should it be implemented as required by applicable law. 42 U.S.C. 4332 (C).

In this letter, we highlight several of the critical gaps in the information and analysis provided in the CPDEIS. This is by no means an exclusive list of the significant

deficiencies in the CPDEIS. We believe that any of these concerns, taken alone, would be sufficient to require substantial additional investigation before release of a Draft Environmental Impact Statement (“DEIS”). Together, they raise fundamental questions regarding the rigor with which the Project has been designed and analyzed.

1. The Tailings Basin Design Does Not Meet Minimum Safety Standards to Prevent Catastrophic Failure and Uncontrolled Release of Tailings to the Embarrass River.

The Tailings Basin is a significant portion of the waste disposal plan for the Project. The CPDEIS proposes tailings from the PolyMet Project would be placed in Cells 1E and 2E of the existing LTVSMC tailings basin, covering the existing facility. The projected flotation tailings generation rate would be 11.27 million tons annually. (3-34). PolyMet tailings would be deposited as a slurry from a moving spigot and discharged from the top of the dam. (4.1-160).

A careful review of the CPDEIS indicates that no design has been developed for the Tailings Basin that meets minimum safety standards to prevent a catastrophic failure and contamination of the Embarrass River.

The initial design for the tailings basin, designated as “Tailings Basin – Proposed Action” does not meet minimum safety criteria and would be subject to large-scale slope failure and uncontrolled discharge of materials containing toxic constituents. As explained in the CPDEIS:

The initial design of the NorthMet tailing facility for the proposed action did not provide for adequate slope stability with an acceptable factor of safety. The design may result in the construction of a facility subject to large scale slope failure and uncontrolled release of impounded flotation tailings and process water. Stability analysis results presented to date do not adequately demonstrate that the design will perform as intended under static or post-liquefaction loading conditions. As a result of the geotechnical concerns with that design, a new design was prepared by PolyMet, referred to as the Proposed Action Mitigation Design. (4.1-65, emphasis added)

The Proposed Action design was so clearly below acceptable standards that the Minnesota Department of Natural Resources did not require PolyMet to perform solute transport modeling for the Tailings Basin- Proposed Action, as stated in the CPDEIS, “MDNR has decided that the Tailings Basin- Proposed Action has sufficient geotechnical uncertainty to determine that the Proposed Action *should not be pursued further.*” (4.1-169, emphasis added)

The alternative considered in the CPDEIS, PolyMet’s Proposed Action Mitigation Design, which would use LTVSMC tailings to build embankments and maintain a pond above tailings at closure (4.1-109), has also been evaluated and determined to be unstable

and unsafe. As explained in the CPDEIS:

It appears an exhaustive study has been completed on potential methods to enhance the stability and the methods are either not effective, too costly or significantly reduce the storage volume. The concern here is *that the Proposed Action Mitigation Design does not meet the minimum factor of safety criteria as it is currently proposed.* (4.1-111, emphasis added)

Inadequate slope stability at the Tailings Basin could result in release of the impounded PolyMet flotation tailings and process water and “could contaminate an extended reach of the Embarrass River down-gradient of the Tailings Basin.” (4.5-14)

Neither the Project nor the environmental review process should proceed forward without a Tailings Basin design sufficient to prevent slope instability, catastrophic failure and release of tons of impounded wastes and process water.

2. Technologies upon which PolyMet Relies to Treat Contaminated Water, Prevent Release of Contaminants and Leaching of Sulfuric Acid are Unspecified, Untested or Unreliable.

In addition to the lack of a safe Tailings Basin design, technologies for wastewater treatment, waste rock stockpiling, prevention of acid mine drainage from mine walls after closure and long-term biological treatment of discharge are unspecified or unproved.

Throughout the CPDEIS, it is clear that PolyMet will rely on a Mine Site Wastewater Treatment Facility (“WWTF”) to treat contaminated water. Yet, no information is provided in the CPDEIS from which it could be determined how effectively the WWTF would serve that function.

The CPDEIS states that process water, precipitation runoff, haul road runoff, surface water runoff from the Rail Transfer Hopper area, water collected on stockpile liners, surface water runoff from stockpiles that have not been covered, groundwater from pit dewatering, water produced by the West Pit excavation and pore water from the Hydrometallurgical Residue Facility will all be treated at the WWTF prior to being pumped to the Tailings Basin for use as make-up water, piped to the Plant to be used as process water or piped to the constructed wetland built on the East Pit. (3-10, 3-12, 3-38, 3-45, 3-52, 4.1-153, 4.5-12).

The CPDEIS states that water produced from the pits would “exceed surface water quality standards” and thus would be pumped to the WWTF for treatment before discharge. (4.1-152). It is implied that the WWTF would take highly contaminated water from various sources throughout the Mine and the Plant and remove or reduce that contamination.

What is missing from the CPDEIS is any description of the WWTF. There is no information in the CPDEIS on the volume of water expected to be treated, the methods by which water would be treated, the levels of chemical constituents in water which treatment would seek to attain, the way in which chemicals extracted through treatment would be disposed of or any data supporting the efficacy of proposed treatment at the WWTF. There is no basis by which one could determine which environmental harms will and will not be mitigated through treatment at WWTF or whether PolyMet's reliance on WWTF treatment is reasonable.

Waste rock stockpiles are another substantial component of the PolyMet Project. Over the twenty-year operations of the mine, 394 million tons of waste rock and lean ore would be stockpiled. (1-2) The maximum height of waste rock stockpiles would be 240 feet (approximately 20 stories tall) with a total footprint, including overburden, of over 756 acres (3-15 – 3-16, Table 3.1-8). A rigorous assessment of these huge stockpiles has yet to be conducted:

To date, a rigorous slope stability assessment of the stockpiles has not been conducted... Failure to address this area of concern could result in large scale slope instability with movement of the waste rock off of the lined area, potential release of contaminants, and significant mitigation work to return the stockpiles to an operable configuration. (4.1-108)

Further, despite the universally recognized concern of long-term acid mine drainage from sulfide mines, PolyMet's plan to prevent long-term acid mine drainage by covering acid-generating rock is an unproven technology.

[T]o reduce the potential for long-term leaching of sulfuric acid and dissolved metals to the East Pit, the proposed action includes constructing and perpetually maintaining layers of overburden and a low-permeability synthetic cover over the acid-generating Virginia Formation highwall rock. This layering assumed to reduce long-term oxidation and solute leaching from wall rock, *though examples of successful application of this technology to inhibit wall-rock acid production and solute release have not been demonstrated.* (4.1-156, emphasis added)

Finally, the proposal to “treat” discharge in a constructed wetland in the East Pit at closure is unsupported and would likely require perpetual maintenance:

The efficiency and long-term effectiveness of the wetland proposed for installation in the East Pit at closure to treat discharge to (sic.) the West Pit has is not supported with tests or references to published studies. The wetland will presumably require perpetual maintenance to ensure its effectiveness. (4.1-159)

As currently described in the CPDEIS, critical components of the proposed Project are unspecified, untested or unproven. Before either the environmental review or permitting process moves forward, PolyMet should be required to demonstrate that its proposed methods of waste disposal, treatment of contaminated water and prevention of discharge and acid mine drainage after closure are thoroughly developed, assessed and validated with objective data.

3. The PolyMet Project Would Significantly Increase Mercury in Local Fish, Creating Human Health Risks Not Assessed in the CPDEIS.

The PolyMet Project would enhance the accumulation of mercury in the food chain in Impaired Waters, where levels of mercury in fish are already unsafe. The increased bioavailability could violate applicable federal and state laws preventing degradation of Impaired Waters and preventing pollution, impairment or destruction of water and other natural resources.

In addition, increased bioavailability could pose a substantial risk of irreversible health impacts. Mercury is a neurotoxin, meaning it damages the central nervous system when people or wildlife eat contaminated fish. The developing nervous system, in an unborn baby or child, is at the greatest risk for brain damage. (Minnesota Statewide Mercury TMDL, March 27, 2007, p. vi). The CPDEIS fails to provide any human health risk assessment for mercury bioaccumulation in fish.

The water bodies in the PolyMet project, including the Partridge and St. Louis Rivers; Wynne, Sabin, Embarrass, and Esquagama Lakes (through which the Embarrass River flows); Colby Lake and Whitewater Reservoir area, already have unsafe levels of mercury in fish. As stated in the CPDEIS, "These water bodies have fish consumption advisories because the mercury concentrations in fish tissue pose a hazard to human health. Mercury contamination of fish also poses a toxicity risk to fish eating wildlife." (4.5-17)

In fact the levels of mercury in these fish, like those throughout most of the St. Louis River watershed, are so high that they were not included in the statewide mercury TMDL. Even the actions identified in the TMDL would not be sufficient to bring mercury to safe levels. (4.5-17).

Virtually all mercury dispersed in the environment, including mercury air emissions, occur in inorganic form. However, virtually all mercury accumulated in fish tissue (more than 95%) is organic methylmercury. The process by which organic mercury is converted to organic methylmercury, methylation, is thus a key step in increasing bioaccumulation of mercury. (4.5-18)

The CPDEIS acknowledges that the PolyMet Project would increase methylation of

mercury.

In addition to atmospheric deposition, local factors related to project construction and operation have the potential to promote mercury bioaccumulation, either through mobilization of mercury stored in rock, soil, peat, and vegetation on site, or through enhanced methylation of mercury (described below). Factors other than atmospheric deposition of mercury are potentially more important with respect to the potential for the NorthMet project to contribute to mercury bioaccumulation in fish. (4.5-18)

The PolyMet Project would result in discharge of sulfates, stimulating the production of methylmercury by sulfate-reducing bacteria. (4.5-18) Mining operations are predicted to “stimulate methylmercury production” and “thereby enhance bioaccumulation” both onsite and offsite as a result of increased sulfate or mercury concentrations in water draining from the site. (4.5-19). Based on published literature, the rate of production of methylmercury may be proportionate to sulfate concentration, and may demonstrate up to a four-fold increase in response to sulfate additions. (4.5-19) The CPDEIS estimates that methylmercury bioavailability above Colby Lake, in the Embarrass River, and in the St. Louis watershed upstream of the Embarrass River confluence could as much as double as a result of increased sulfate from the PolyMet project. (4.5-31)

In addition to increased methylation from sulfate discharge, hydrologic changes and water level fluctuations from the PolyMet Project would increase mercury concentrations in the food chain:

Methylation of environmental mercury by sulfate-reducing bacteria is stimulated by drying and rewetting associated with hydrologic changes and water level fluctuations. This mechanism stimulates production of methylmercury in sediments exposed to wetting and drying cycles. . . Thus, hydrologic changes and water level fluctuations can stimulate mercury methylation and enhance bioaccumulation. (4.5-19-4.5-20)

The CPDEIS acknowledges that water withdrawals for the PolyMet processing plant and changes in the hydrological characteristics of the area are likely to impact water levels in the Partridge River, Colby Lake and Whitewater Reservoir. and that increased water level fluctuations in Whitewater Reservoir “have the potential to promote mercury methylation.” (4.5-15). In some localized reaches of the Whitewater Reservoir, shoreline retreat could be approximately 75 feet if the Project demands water at a rate of 3,500 gallons per minute (“gpm”) and up to several hundred feet if the Project demands 5,000 gpm of water. (4.1-83). Game fish in Colby Lake and Whitewater Reservoir, which are already above safe levels of mercury, include crappie, bass, catfish, northern pike and walleye. (Table 4.5-9, p. 4.5-10).

Studies summarized in the CPDEIS show that flooding of wetlands can result in as much as a five-fold mercury increase and water level fluctuations result in a two-fold increase in mercury concentrations in fish. (4.5-20) “Land cover changes, diversion of process water to the mine plant, and water withdrawal from Colby Lake may cause water level fluctuations in wetlands and surface waters that could promote mercury methylation.” (4.5-21). CPDEIS modeling suggests an increase in methylmercury concentration of 100 to 400 percent of baseline levels as a result of water level fluctuation of in the Partridge River drainage system upstream of Colby Lake. (4.5-27).

Wetlands serve as a reservoir of mercury deposited through air emissions. Destruction of peat bogs and wetlands by the PolyMet project would release stored mercury that has been bound to organic matter:

Mining operations at the NorthMet site would result in forest clearing and soil and wetlands disruption over an area of approximately 3,260 acres (1320 hectares). Mercury accumulated in the affected surficial material may be mobilized in the process of land clearing, and overburden removal and stockpiling. Oxidation and decomposition of peat would also likely mobilize stored mercury. Mobilized mercury may then be transported to sites conducive to mercury methylation by sulfate-reducing bacteria. Furthermore, stockpiling of overburden and other disruption of peat deposits would likely partially oxidize to sulfate the reduced forms of sulfur contained in the organic material. Periodic rewetting of exposed peat by precipitation and water level fluctuations may then promote methylation of mercury by sulfate-reducing bacteria within the oxidizing peat material. Thus, disruption of peatlands may stimulate the methylation and mobilization of mercury that has accumulated over many years. (4.5-22)

Research suggests a five-fold increase in methylmercury where 80 percent of the peat in a watershed was drained. (4.5-28). PolyMet’s predictions, based on the fact that the Mine Site represents 8.4 percent of the peat in the Partridge River watershed, estimate up to a 42 percent increase in methylmercury exported from the entire watershed. (4.5-28). Even without analyzing localized impacts on smaller tributaries or fish spawning areas, the impact is substantial:

Because of the large pool of mercury sequestered in the peatland within the NorthMet mine site, however, mobilization of even a small fraction of that pool would have a large effect on methylmercury production at the scale of the Partridge River watershed. (4.5-29)

The CPDEIS acknowledges, “Individually and collectively these factors may significantly increase the potential for bioaccumulation in fish by increasing the production and

bioavailability of methylmercury." (4.5-31) However, the CPDEIS completely fails to analyze the human health and ecological risks associated with increases in mercury concentrations in fish tissue. These risks are substantial. "Methylmercury is a highly toxic substance; a number of adverse health effects associated with exposure to it have been identified in humans and in animal studies." (U.S. EPA, Integrated Risk Information System, Methylmercury, CASRN 22967-92-6).

For fetuses, infants, and children, the primary health effect of methylmercury is impaired neurological development. Methylmercury exposure in the womb, which can result from a mother's consumption of fish and shellfish that contain methylmercury, can adversely affect a baby's growing brain and nervous system. Impacts on cognitive thinking, memory, attention, language, and fine motor and visual spatial skills have been seen in children exposed to methylmercury in the womb. (U.S. EPA, Mercury Health Effects, <http://www.epa.gov/mercury/effects.htm>)

Before a Draft EIS is released for the PolyMet Project, an analysis must be done to determine the degree to which all of the methylmercury production associated with the PolyMet mine and processing plant are likely to result in brain damage of fetuses, infants and children. The environmental justice implications of this increase in mercury should also be evaluated.

4. The CPDEIS Suggests that the Multiple Discharges from the PolyMet Project to Surface Water and Ground Water Would Violate Clean Water Act and State Water Quality Standards.

The CPDEIS provides no indication that the seepage, leakages, discharge and outflow from the PolyMet Mine and Tailings Basin both during and after operation would meet applicable Clean Water Act ("CWA") requirements, including compliance with state water quality standards under Section 401 (33 U.S.C. Section 1341) and the National Pollutant Discharge Elimination System (NPDES) permit program.

It is acknowledged that discharges near the source at the PolyMet Project will exceed Maximum Contaminant Levels ("MCLs") for arsenic, antimony, sulfate, iron, manganese, nickel and copper. (4.1-87). The CPDEIS also documents discharges into navigable waters that exceed applicable water quality standards. Aluminum concentrations in the Embarrass River will exceed water quality standards under all scenarios for Plant development. Not only do current levels of aluminum violate water quality standards, but the Project will increase aluminum concentrations in the Embarrass River by up to 29 percent over existing conditions. (4.1-106). The CPDEIS identifies predicted water quality violations from the Mine Site to the Partridge River:

For the Category 3 waste rock stockpile, concentrations of arsenic, copper, iron, manganese, nickel and antimony are likely to exceed the ground water evaluation criteria or secondary MCL criteria in a zone downgradient of the facility. There is a reasonable chance (i.e., under high liner leakage scenario) that nickel and, for

some years, sulfate, will exceed their MCLs where this ground water discharges to the Partridge River (4.1-94, references deleted).

The Lean Ore Surge Pile will almost certainly produce a groundwater plume that exceeds MCLs for iron, manganese, and nickel; and there is some chance (i.e. under high liner leakage condition) that the zone of groundwater that exceeds the MCLs for these three constituents will become large enough to discharge to the Partridge River. (4.1-94)

Although PolyMet states that there will be no surface discharge from its Mine or Plant facility “with the exception of seepage to groundwater from the tailings basin” (1-9), the CPDEIS also notes that the Cliffs Erie Hoyt Lakes Tailings Basin has produced seeps and discharge even after becoming inactive in 2001. These seeps, included in an NPDES surface water permit for the Tailings Basin, “have caused elevated levels of chemical constituents into the environment.” (4.1-11)

The CPDEIS also states that groundwater serves to recharge stream flow in the Project area (4.1-16), and that “shallow ground water typically immediately discharges to adjacent wetlands and surface water.” (4.1-65). The depth to ground water across the Mine Site is generally less than 5 feet below ground surface (4.1-40) so that chemicals entering ground water at the Mine Site would discharge to nearby wetlands and streams.

Since the liner system for the Category 1 and 2 stockpiles “does not appear to provide adequate containment. . . . most if not all of the infiltration will pass through the soil liner with little or no flow collected by the drain layer.” (4.1-107) At closure, further surface water impacts are predicted: “The East/Central and West pits are expected to fill and have a net outflow of surface waters.”(3-41).

The CPDEIS summarizes some of the flaws in PolyMet’s strategy to avoid a direct analysis of surface water discharges and water quality impacts.

The reuse/recycle strategy adopted by PolyMet has resulted in no planned point discharge of process water from the Mine Site to the Partridge River. However, unrecoverable leakage from Category 1/2 Waste Rock, Category 3 Waste Rock, Category 3 Lean Ore and Category 4 Waste Rock Stockpiles and Category 4 Lean Ore Surge Pile represents a potential pathway for water quality impacts to the Partridge River and Colby Lake, in particular during the period of mining operations prior to the complete closure of waste rock stockpiles. In addition, as a result of the closure plan for the East Pit and West Pit, groundwater recharge to the Partridge River can be expected from these pits, which represents a second potential pathway for water quality impacts to the Partridge River. (4.1-100, references deleted)

Leakage and seeps must be rigorously analyzed to determine if they would meet water quality standards, particularly since they will persist for centuries beyond mine closure. The CPDEIS discloses that sulfate discharge is predicted to reach its peak in about year 180, exceeding secondary Maximum Contaminant Levels as much as 160 years after the mine has been shut down. (4.1-180). “Metals and sulfate leaching will eventually be leached out, but full depletion of most components of interest would take centuries – far beyond the period of prediction.” (4.1-142).

5. The CPDEIS Lacks Important Data about Existing LTVSMC Contamination, Toxic Endpoints and Health Risks from Pollution, and Domestic Water Wells Near the Tailings Basin.

Basic information needed to determine the environmental and human health impact of the PolyMet Project and the benefit of the No Action alternative is missing from the CPDEIS. Several categories of this information are identified below.

LTVSMC Site Contamination

The CPDEIS contains inadequate data regarding the LTVSMC site. There is inadequate monitoring to determine elevated background concentrations and model ground water impacts. (4.1-120). There is no characterization of the chemical composition of the underlying LTVSMC tailings, through which seepage from the PolyMet tailings will pass, adding additional solutes to the seepage. (4.1-161). There is no discussion of either the extent of contamination found or remediation proposed for LTVSMC Plant closure; this information is vital to determine both environmental impacts of the Project and the level of environmental benefit from the No Action option.

Toxic Endpoints & Risk Assessment

The CPDEIS has yet to discuss toxic endpoints of pollutants discharged to surface water or groundwater or to provide either a human health or an ecological risk assessment. Toxic endpoints for human health risk assessment of groundwater contaminants include, but are not limited to, cancer, cardiovascular system, developmental effects, endocrine system, eyes, hematologic system, immune system, kidney, liver, male reproductive system, nervous system, and stomach. Minn. R. 4717.7600. Ecological risk assessment requires identifying species at risk and pollutant levels likely to impair spawning and development as well as survival of adult aquatic species.

Risk assessment should take into account pollutants already in surface and ground water as well as the added PolyMet releases. For example, manganese, a chemical that affects the human nervous system (Minn. R. 4717.7650) already exceeds ground water standards at both the Mine Site and the Tailings Basin (4.1-55) and will be released by the PolyMet Project in concentrations exceeding Maximum Contaminant Levels (4.1-87). Yet, the CPDEIS contains no assessment of neurological health risks from manganese.

Domestic Wells

The lack of human health assessment for groundwater contamination is more striking because there are 27 known domestic drinking water wells located between the PolyMet Plant and Tailings Basin sites and the Embarrass River. Although the CPDEIS details the location, depth and owners' names, (4.1-39, Table 4.1-20), it provides no data regarding water quality or current levels of chemicals in these wells. The CPDEIS proposes, "Recent well water levels and water quality data will be collected prior to preparation of the final EIS." (4.1-38). This is inadequate.

Analysis of contamination and potential remediation at the existing LTVSMC site, human health and ecological risk assessment and a specific evaluation of baseline and Project impacts to nearby drinking wells must be completed before the environmental review process is ready to move forward.

Conclusion

The PolyMet strip mine and processing plant is a Project of substantial scale. PolyMet would mine approximately 91,200 tons of rock per day (32,000 tons of ore) from 3 open pit mines. Over 20 years, 228 million tons of base and precious metal ore would be mined (1-1) and 394 million tons of waste rock and lean ore would be stockpiled. (1-2). The PolyMet open pit sulfide mine and processing plant represent a new risk to Minnesota's water and natural resources with far-reaching environmental and human health risks. It is certain to cause irreversible and irretrievable losses and commitments of resources. (6-1)

In this context, WaterLegacy believes that responsible and cooperating agencies have a legal and moral obligation to ensure that the technologies and designs proposed for the PolyMet project are specified, tested, and supported with scientific data and experience before either the environmental review process or the permitting process moves forward. Neither the Tailings Basin design, the Waste Water Treatment Facility, the waste rock stockpiles, the covering for Virginia Formation highwall rock nor the constructed wetland treatment proposed for the East Pit meet this threshold requirement.

WaterLegacy also believes that PolyMet should be required to show that neither mercury methylation nor seepage, leakage and discharge from the Project will degrade or pollute surface or groundwater or increase human health and ecological risks. The "reuse/recycle" strategy does not diminish the need for a comprehensive analysis of discharge from the Project to surface water as well as groundwater. Human health and ecological risk assessment, including identification of toxic endpoints and effects upon developing organisms must be included in the environmental review analysis. In addition, specific information gaps regarding the contaminated LTVSMC site, upon which PolyMet would dump tailings as well as build its processing plant, and the drinking water wells near the site, must be addressed before environmental review proceeds.

WaterLegacy has serious concerns about the potential for catastrophic failure of the Tailings Basin and waste rock stockpiles, resulting in uncontrolled release of pollutants to nearby water bodies. We are also concerned about increases in mercury methylation and mercury in fish tissue in the Impaired Waters surrounding the Project and throughout the St. Louis River watershed. Long after the proposed mine would be closed, a legacy of acid mine drainage, water quality violations and health consequences, including brain damage from mercury consumption, could irreparably harm the waters in Northeastern Minnesota and the communities who rely on them.

We would respectfully request that PolyMet be required to address the concerns identified in this letter and demonstrate the safety and reasonableness of their proposals before a Draft EIS is released or any action taken in connection with permits for the PolyMet project.

Please do not hesitate to contact me at 651-646-8890 if you have any questions or if you would like me to send you an electronic copy of this letter.

Sincerely,

Paula G. Maccabee /s/

Paula Goodman Maccabee
Attorney for WaterLegacy

cc: Karen Diver, Tribal Chair, Fond du Lac Band of Lake Superior Chippewa
Kevin Leecy, Tribal Chair, Bois Forte Band of Chippewa
Jane Neuman, Tribal Project Coordinator, USEPA