

# STREAMLINING POLLUTION

By Elanne Palcich

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## Streamlining Pollution in Minnesota

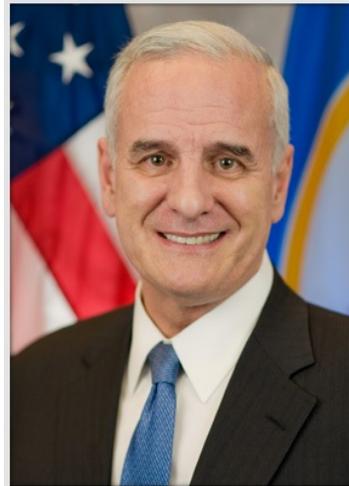
On March 3, 2011 Governor Dayton signed into law legislation designed to streamline the environmental review process for businesses and industries seeking permits to operate in Minnesota (House File 1, Senate File 42). This legislation directly fast-tracks proposed copper-nickel mining in Minnesota.

### Minnesota's Strict Standards

Iron Range legislators and mining company officials have repeatedly stated that copper-nickel mining is best done here, where we have strict environmental laws in place to protect the environment. In a joint letter of support for PolyMet dated December 5, 2009, the entire Iron Range state legislative delegation stated, "We want mining to take place in Minnesota, where we know that the regulations are stringent and that regulators are tough on enforcement." On December 9, 2009 the Mesabi Daily News printed the following from U.S. Senator Al Franken: "Minnesota has strict environmental standards, and I have the utmost confidence in the environmental review process." On March 1, 2010, Frank Ongaro of Mining Minnesota was quoted by the Star Tribune as saying, "Like any company, PolyMet will be required to demonstrate that it will meet all of Minnesota's strict air and water quality standards, or its project will not be built."

PolyMet, Inc. is a Canadian company seeking permitting to open the first copper-nickel sulfide mine in Minnesota. After four years of environmental studies prepared in conjunction with the Minnesota Department of Natural Resources (DNR), the project's Draft Environmental Impact Statement (DEIS) was released in November of 2009. Citizens who combed through 1800 plus pages of the DEIS found few details for treatment or mitigation of likely violations of water quality standards. In February of 2010, the Environmental Protection Agency (EPA) rated the DEIS as EU-3, Environmentally Unsatisfactory-Inadequate. In short, metallic sulfide mining cannot be done in northeast Minnesota without polluting the watersheds for centuries to come.

Now begins 2011 with a Democrat governor dependent on the votes of northeastern Minnesota and a



Minnesota Governor Mark Dayton

Republican dominated legislature bent on facilitating industry at all costs. The result is a race to see who can do the most to get PolyMet permitted. Without the weakening of current regulations, the mining of sulfide ores cannot meet state standards. By lowering standards put into place over the past forty years,

northeastern Minnesota is being relegated to third world status.



**Bankrupt LTV Steel Mining Company tailings basin near Hoyt Lakes. PolyMet purchased both the crushing facilities and tailings basin for its proposed sulfide mine. PolyMet would layer more tailings on top of LTV tailings that are already leaching contaminants into the St. Louis River watershed.**

**Photo: Save Our Sky Blue Waters [www.sosbluewaters.org](http://www.sosbluewaters.org)**

## Citizen Legal Appeal and Iron Range Resources

In January of 2011, the Iron Range Resources Board (IRRB) was served notice of intent to sue by the Center for Biological Diversity, Minnesota Center for Environmental Advocacy, Save Lake Superior Association, Indigenous Environmental Network, and Friends of the Boundary Waters Wilderness. The groups gave notice that a \$4 million loan to PolyMet for land purchase was illegal per the Minnesota Environmental Policy Act (MEPA) as being done ahead of, and with the possibility of influencing, permitting of the mine.

PolyMet's open pit mining operation would occur on land that is currently part of the Superior National Forest. According to Federal law, open pit strip mining operations are prohibited on USFS land originally purchased under the federal Weeks Act for watershed protection. The USFS has been ducking this issue for the past 5 years. The Forest Service could have denied PolyMet the surface use of its lands. Instead the USFS has initiated a draft EIS process in preparation for a land exchange with PolyMet. The 6,700 acres needed for PolyMet's proposed open pits includes over 1000 acres of high functioning wetlands that are ARNI (Aquatic Resources of National Importance). To find land parcels of equal value for PolyMet to purchase for exchange may be difficult and costly. Hence the needed IRRB loan.

The IRR is a state agency that is funded by taconite production taxes paid in lieu of property tax, and manages a budget of approximately \$40 million a year to assist with economic development and diversification in northeast Minnesota. In order to evade the law suit and allow the PolyMet loan to go forward, the streamlining law specifically exempts the IRRB from prohibition to perform actions to promote a project before environmental review is complete. Yvonne Prettnner-Solon, now the state's Lt. Governor, is a former member of the IRRB.

The streamlining law also removes citizen rights to use Minnesota district courts for environmental law suits. All suits must now go through a more expensive Minnesota appeals court process. The constitutionality of altering jurisdiction and bypassing district court appears questionable. Litigation is the only avenue granted to citizens as a means of seeking recourse when laws or regulations are not being applied or enforced.

The new streamlining law has far reaching ramifications beyond mining. It affects all industrial projects that require permitting. These include Concentrated Animal Feeding Operations (CAFO's), coal

power plants, nuclear plants, ethanol plants, wind farms, agricultural operations, and garbage incinerators, among others. Some smaller projects may be exempted from environmental review altogether.

## Proposers Can Draft Own Environmental Review

The new law allows project proposers to prepare their own environmental review. When companies hire their own consultants, much of the information presented to the agencies for evaluation can be considered proprietary. The agencies must then rely on figures given by the company or perform duplicate studies. Under these circumstances, it is difficult to evaluate the extent of potential pollution from proposed operations.

The entire Duluth area delegation, all Democrats, opposed the streamlining bill. This includes Representatives Kerry Gauthier, Bill Hilty, Tom Huntley, Mary Murphy, and Senators Roger Reinert and Tony Lourey. According to Representative Kerry Gauthier, as quoted in the Mesabi Daily News, "I voted no because I don't believe companies should be able to do their own Environmental Impact Statements." In the same article, Representative Bill Hilty says, "The idea that it will somehow make for a better process if the proposer is allowed to produce their own EIS—that makes no sense to me at all."

When companies are given more control over the environmental review process, it marginalizes citizen access to technical, accurate, and reliable information. In addition, citizen response time to the review, no matter how complicated, is now limited to 30 days, rather than the former limit of 90 days.

The Mesabi Daily News, March 7, 2011, quotes state representative Bill Hilty, who voted against the streamlining bill as saying about PolyMet, "*The profits are going to a company that isn't based here, the product is going someplace else, and we'll be stuck cleaning up the mess...I don't want Minnesota to become a third world country.*"

## Lowering Minnesota Standards

Of special interest to proposed sulfide mining is the Minnesota standard of 10 mg/l of sulfate in the state's watersheds. Studies show that wild rice was abundant in the upper St. Louis River watershed prior to the 1950's

and the start up of taconite mining. Remaining wild rice stands are stunted due to high levels of sulfates in the waters. The tailings basin formerly owned by the LTV taconite company and purchased for use by PolyMet is currently leaching sulfates and other contaminants into the watershed.

Also of concern is the biochemical process involving sulfates in which mercury is converted into methylmercury, which bio-accumulates in fish tissue, and is thus transferred to birds, wildlife, and humans. Mercury is a potent neurotoxin. There are now fish advisories on most northern Minnesota lakes to limit the amount of fish eaten per week. Advisories are based upon studies that show the human body can excrete limited amounts of mercury. But that amount can still be toxic to infants, young children and the elderly. Mercury has been implicated in lowered IQ, autism symptoms, neurological symptoms, and Alzheimer's disease.



**Wild Rice Beds in the upper St. Louis River, Minnesota**  
Photo: Save Our Sky Blue Waters [www.sosbluewaters.org](http://www.sosbluewaters.org)

It is known that Minntac's taconite tailings basin is leaching 3 to 4 million gallons per day of water containing sulfates and other pollutants into two watersheds. Minntac is also seeking to release recycled water that has been used in plant operations since start-up and is becoming corrosive to plant equipment. The DNR has not been able to figure out where best to divert this contaminated water. Minntac is now in the process of expanding operations. This expansion would be threatened if the MPCA begins to adhere to the original sulfate standard of 10 mg/l. Unfortunately, governmental agencies have been lax in forcing taconite operations to meet state water quality standards. The result is the total loss of wild rice crops between Minntac and Lake Vermilion and the fact that the St. Louis River

Watershed is now so contaminated with mercury, the MPCA cannot conceive of a plan to clean it up.

But state representative Tom Rukavina is proposing to increase the sulfate limit to 250 mg/l. According to the Duluth News Tribune, March 5, 2011, "Rukavina said he is considering using the 250 milligrams per liter state standard for drinking water in his legislation because there is little or no science to defend the *strict* 10 milligram limit." However, the methodology of John B. Moyle, dating back to the 1940's, establishes that large stands of wild rice do not occur in water having more than 10 mg/l of sulfates. Also, the EPA estimates that only about 3% of drinking water supplies in the U.S. have levels of 250 mg/l of sulfates or greater. Rather than insist that our waterways be cleaned up, Rukavina proposes to pave the way for both the expansion of Minntac and the opening of an entirely new sulfide mining district, which would greatly increase the amount of sulfates, mercury, and toxic heavy metals in the watershed.

His basis for doing this is to promote the 360 estimated PolyMet jobs. If our area legislators took as much interest in Cirrus Aircraft manufacturing operations in Duluth that are in the process of being sold to a Chinese company, they could save 500 local jobs that are already in existence. Upon being appointed head of the IRR by Governor Dayton, Tony Sertich promised to support existing businesses, and Cirrus employs Iron Range workers.



**Acid Mine Drainage (AMD) North-Central Black Hills, South Dakota - photo SDENR**

## Copper-Nickel-Precious Metals as Strategic

Newly elected US 8<sup>th</sup> district representative Chip Cravaack has stepped into the mix to facilitate sulfide mining. He claims this mining is necessary because copper, nickel, and precious metals are strategic for US interests.

Mr. Cravaack is either neglecting to notice, or has not been informed, that PolyMet is a Canadian company, that all of PolyMet's metals would be semi-processed on site and would need further smelting, and that PolyMet has a market agreement with mining conglomerate Glencore to sell all metals on the global market. Inquiries for purchase of these semi-processed metals are coming from China. Both China and India are stockpiling metals in the process of building themselves into the world's next industrial giants. The US will need to buy these metals back on the global market.

However, it is to mining company advantage to have Cravaack claim that these metals are needed for US strategic interests. According to the Boundary Waters Canoe Area Wilderness Act of 1978, the BWCAW can only be mined in the case of national emergency. Twin Metals and others have deposits which border the BWCAW and dip down under the wilderness area. By claiming these metals as strategically important, Cravaack could be facilitating the opening of the BWCAW to mining operations. Wilderness areas and clean water across the US are being threatened by so-called strategic drilling. Cravaack would do better by the citizens of this country if he would research the recycling of metals from military equipment for strategic use.

### Financial Assurance

Other legislation to promote mining is also winding its way through the corridors of the State Capitol. Observers have noted that Brad Moore, formerly of the MPCA and now working for PolyMet, and LaTisha Geitzen, Environmental Affairs for PolyMet, have been wandering the halls with their input. PolyMet staff is essentially helping write legislation that would be conducive to its permitting.

Among these issues is financial assurance. Some environmental groups have been arguing that sulfide mining should not take place without strong financial assurances, so that tax-payers won't become responsible for super-fund site clean-up costs some thirty years or more down the line. However, it is to the mining companies' advantage to have minimal financial assurance obligations. PolyMet currently does not have enough assets to begin mining, and investor money is

needed for plant start-up, not financial assurances. In addition, the requirement of large amounts of financial assurance would notify investors that his project carries huge environmental risk. So it is in PolyMet's best interests to have a friendly legislature enact legislation that would lead the way for all proposed sulfide mining companies to be guaranteed minimal financial assurance responsibility. Perhaps the amount could be low enough to be funded by the IRR.

*"The decisions being made now by our elected officials will undoubtedly affect how much pollution and environmental harm will occur later if these sulfide mines are allowed to proceed,"* said Marc Fink, a Duluth attorney with the Center for Biological Diversity.

## Streamlining a Toxic Environment for Future Generations

While Iron Range legislators have jumped on a band wagon to facilitate sulfide mining, they have lost sight of the long-term consequences. The mining of less-than-1% ores results in 99% waste rock. The cost of fuels, mining equipment, plant machinery, electricity, and transportation are all projected to rise. The potential for these mines to remain operational for more than twenty years is highly doubtful.

Both Japan and Canada are already developing industries that will recycle all electronic waste. They are realizing that electronic equipment is being updated so quickly that we cannot manage the resulting waste stream. As oil prices continue to rise, demand for many products will decline, while citizens start looking for energy efficient solutions.

Our legislators seem to be unaware of these future trends. We, as citizens, must stand up and defend the rights of our children and our grandchildren to a future that is based on clean water, clean air, and a healthy environment. The jobs most needed right now are those that will clean up our toxic messes and take us to a sustainable future. To facilitate the opening of a copper-nickel sulfide mining district in the Arrowhead Region of Minnesota when the state cannot manage the pollution created by taconite mining is irresponsible policy. Our legislators and governmental leadership must be held accountable.

**By Elanne Palcich, Chisholm Minnesota**