



September 4, 2023

Minnesota Pollution Control Agency
520 Lafayette Road
Saint Paul, MN 55155

Re: Site-Specific Sulfate Standards Framework – MPCA Public Comment

To Whom It May Concern,

This letter is in response to the Minnesota Pollution Control Agency's call for public comment in regard to Hibbing Taconite (Cleveland-Cliffs) and U.S. Steel's request for site-specific standards and exemption from Minnesota's 10 mg/L wild rice sulfate rules.

Earlier this summer, I had the opportunity to join with the Minnesota Department of Natural Resources (DNR), MPCA officials, and a bi-partisan group of Minnesota Senators and House members for a mining tour. As part of the tour, we visited with U.S. Steel representatives, including an environmental/community relations specialist. When I inquired about U.S. Steel's approach to curbing mercury emissions, the specialist pointed to a lack of specificity and direction from the government, and explained that U.S. Steel was waiting for government rules to be clarified prior to taking action. This environmental/community relations specialist noted that the mercury rules may not even be issued at all— and that U.S. Steel has been waiting to see them before it would act.

This response, although not surprising, was deeply disappointing. U.S. Steel executives have known for years the damages its emissions, including mercury emissions, cause. The Minnesota Department of Health has found that 10% of children born along the north shore of Lake Superior have elevated and unhealthy levels of mercury.¹ Unfortunately, the evidence appears to point to this response being demonstrative of the industry's general approach toward meeting their obligations to our communities: an ingrained practice of deprioritizing the public's interests in the pursuit of profit.

As a foundational matter, both U.S. Steel and Cleveland-Cliffs have more than abundant resources with which to act to protect the health of our people and environment. These two corporations regularly report exorbitant profits in the billions of dollars. However, in spite of the enormous wealth and power these corporations hold, not only have they failed to take adequate actions to curb emissions— they also have a pattern of engaging in active litigation and other tactics to forestall action.

¹Josephine Marcotty, Minneapolis StarTribune. (2012)
<https://www.startribune.com/high-levels-of-mercury-found-in-north-shore-babies/138616674/>

A cursory look at the recent national record in regard to how both U.S. Steel and Cleveland-Cliffs approach their responsibilities to public health and our environment is troubling.² It appears that these corporations are engaging in regular, ongoing violations of public trust. One can only conclude that routine neglect and disregard for their responsibilities toward the public seem to be part of how they conduct business.

Perhaps due to these corporations' hostile approaches toward government regulation and oversight, some in our state government are now even proposing that we provide \$17.6 million of the people's money to these same corporations— in corporate-welfare grants— in an attempt to incentivise them to do right. Similarly, the MPCA has delayed its own enforcement— of both mercury and sulfate emissions rules— ostensibly in the name of providing “certainty” to these corporate giants.³

Last month we also saw the release of the Minnesota Supreme Court opinion, *In re PolyMet NPDES Permit* (Minn. Aug 2, 2023). The 6-0 decision was a stinging rebuke to the MPCA's issuance of a key air emissions permit for the controversial Polymet copper-sulfide mining proposal. In suspending the permit, the Court reviewed detailed testimony and facts demonstrating that agency officials did not follow regular permitting practices and in fact worked to keep EPA concerns that the draft permit was inadequate to insure that the project would be in compliance with the Clean Water Act out of the public record. In concurrence, Justice McKeig chastised the MPCA for ignoring the Fond du Lac Band's treaties, and for treating the Band's interests in clean water as “an afterthought.”⁴ This decision is a vindication for the thousands of Minnesotans— including many from my own state senate district and region. We were correct to have been sounding the alarm for all these years. The MPCA had indeed failed us.

While the current U.S. Steel and Cleveland-Cliffs request for site-specific sulfate rules relates to a separate issue; it has been made in the fallout of this broken trust between the MPCA and the public, and ongoing concerns about the agency's transparency and integrity. Part of the public discussion about the Polymet mine and permitting that led to my own entrance into public life included concerns about corporate capture of our state agencies, and my own neighbors' fears over the answers to some fundamental questions.

Do our government agencies truly serve the people— our families, neighbors? Or are they captured by corporate interests— working in service of and in collusion with corporate power and its demands that place profit over our wellbeing? Would our agencies side-line our communities'

² See <https://www.epa.gov/newsreleases/us-steel-pay-15-million-penalty-make-improvements-settle-air-pollution-violations>; <https://www.epa.gov/newsreleases/cleveland-cliffs-agrees-improve-environmental-compliance-indiana-facility-and-pay-3>; <https://www.wesa.fm/science-health-tech/2020-02-24/class-action-settlement-delivers-2-million-to-residents-living-near-clairton-coke-works>; <https://www.duluthnewtribune.com/business/cliffs-fined-for-air-quality-violations>

³Dan Kraker, Business North. (2023) First published 2023, Minnesota Public Radio. http://www.businessnorth.com/minnesota_public_radio/epa-to-require-taconite-plants-to-slash-mercury-emissions/article_c10aa8c0-f266-11ed-ae-de-1f7ee95a29e5.html

⁴Ibid. (Minn. Aug. 2 2023) Concurrence 1.

health, safety, and local economies to benefit those powerful actors? Sadly, the recent Polymet court decision reveals that our concerns were well-placed: our own MPCA wrongfully greenlighted a dangerous corporate mining project to the detriment of the people the agency was supposed to protect.

I join others who now call on the MPCA to act in compliance with state and federal statutes and regulations, to enforce those regulations fully, and to ensure going forward that its decisions and deliberations in this regard are wholly public and transparent. The MPCA's duty is to protect the people of Minnesota and our environment. Giving these mining behemoths—who have known full-well for decades what would be required of them in order to do right by our people— special treatment now, would be another blow to the legitimacy of the agency and any faith people may still hold that our government agencies do serve the public. Issuing special, site-specific standards that bypass and disregard our 10 mg/L wild rice protections would be an immense disservice to the people of Minnesota. I strongly urge the MPCA to work with Tribal Nations in meaningful consultation, to finally begin enforcing the 10 mg/L standard, and to deny this request.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer A. McEwen". The signature is written in a cursive, flowing style.

Senator Jen McEwen

Chair, Senate Labor Committee

Senate District 08 – Duluth