

## PolyMet NorthMet Copper-Nickel Mine Land Exchange Rider: Threat to Due Process & Lake Superior Watershed, Benefit to a Notorious Multinational Corporation

### PolyMet Land Exchange Riders to Federal Bills: Designed to prevent judicial review of legality of 6,650- acre land swap in Minnesota's Superior National Forest.

- Citizen lawsuits have challenged the PolyMet land exchange in federal court as a “sweetheart” deal illegally undervaluing public land, in violation of the Federal Land Policy and Management Act.
- Appraisers were told to ignore the fact that public lands would be used by PolyMet for mining, pricing the land at \$555 per acre, while another mining company paid \$3885 per acre for nearby private land.<sup>1</sup>
- Other lawsuits challenge the PolyMet land exchange as illegal under the Endangered Species Act, the National Environmental Policy Act, and the Weeks Act, which protects public lands from open-pit mining.
- It is highly irregular and a threat to due process for Congress to deny citizens their day in court by shutting down judicial review already underway.
- No PolyMet Rider is needed to “expedite” the mine project since the Court allowed the land exchange to proceed while judicial review is pending. The exchange closed June 28, 2018.<sup>2</sup>



### PolyMet Mining Corp. and its “strategic partner” Glencore Plc. would benefit from the PolyMet Land Exchange Rider.

- PolyMet has no mining experience and no assets other than those of its proposed NorthMet mine.
  - PolyMet has yet to receive a single permit for its proposed open-pit copper-nickel mine.
  - Glencore PLC, a huge foreign commodities and mining corporation, is PolyMet’s “strategic partner” and owns all of the rights to all products from the PolyMet mine.<sup>3</sup>
- Glencore is PolyMet’s primary backer, and could own 40% of PolyMet’s stock under existing agreements.<sup>4</sup>
  - Recently, PolyMet’s capital costs have doubled and its predicted rate of return plummeted by two-thirds.<sup>5</sup> Glencore’s assets mitigate the risk of PolyMet failure to finance its mine.<sup>6</sup>

### Glencore is under Investigation by U.S. Department of Justice for Corruption, Dealings with Russia

- In July 2018, Glencore admitted it had received a subpoena from the U.S. Department of Justice seeking material related to “compliance with the Foreign Corrupt Practices Act” and U.S. money laundering rules.<sup>7</sup>
- Justice has requested documents relating to Glencore’s dealings in Nigeria, the Democratic Republic of Congo and Venezuela dating back to 2007.<sup>8</sup>
- Glencore is also under scrutiny for skirting U.S. sanctions against Russia and a \$338 million deal to prop up Russia’s state-owned oil company.<sup>9</sup>



## The PolyMet Copper-Nickel Mine Threatens Water Quality, Wetlands, Tribal Resources and Human Health in Minnesota's Lake Superior Watershed.



- The PolyMet mine would be located on tribal Ceded Territory lands upstream of the Fond du Lac reservation, the largest U.S. tributary to Lake Superior (St. Louis River), and the city of Duluth.
- Contaminated seepage from PolyMet's unlined waste rock pile would require at least 200 years of water quality treatment and seepage from unlined tailings waste at least 500 years.<sup>10</sup>
- The PolyMet project would directly destroy 914 acres of wetlands and potentially impact up to 8,608 wetland acres.<sup>11</sup>
- PolyMet pollution and changes to adjacent wetlands would create a substantial risk of increased methylmercury in the Partridge, Embarrass and St. Louis Rivers.<sup>12</sup>
- Many of the lakes and rivers downstream of the PolyMet site already have dangerous levels of mercury in fish.<sup>13</sup> In Minnesota's Lake Superior region, 1 in 10 infants are born with unsafe levels of mercury in their blood.<sup>14</sup>
- The PolyMet land exchange would impact critical lynx and wolf habitat and result in a net loss to the public of 6,026 acres of Minnesota High Biodiversity Sites.<sup>15</sup>
- Negative impacts of the PolyMet mine on water quality, fish, plants and wildlife would disproportionately affect tribal Ceded Territories and downstream tribal resources, and would impair human health.

## Indian Tribes and Environmental Groups across the United States Oppose Federal Legislation to Compel the PolyMet Land Exchange.

- **The National Congress of American Indians** opposes legislation to compel the PolyMet land exchange:

[S]uch congressional action sets a dangerous precedent by bypassing important and long-standing laws that ensure tribal lands, resources, and reserved rights are protected, consistent with the federal government's Treaty and trust obligations to Indian tribes, and subject to the right to seek judicial review of federal agency decisions.<sup>16</sup>

- **62 environmental groups across the U.S.**, including the Sierra Club, League of Conservation Voters, and National Parks Conservation Alliance, oppose legislation to mandate the PolyMet land exchange.<sup>17</sup>

### Notes

1. *WaterLegacy v. USDA Forest Service et al*, 0:17-cv-0076-JNE-LIB (D. Minn., filed Jan. 13, 2017), *Complaint and Messner Appraisal Review*.

2. PolyMet Mining website, <http://polymetmining.com/project-status/summary/>.

3. PolyMet Mining Annual Information Form, Mar. 27, 2018; PolyMet Mining NorthMet Form NI 43-101F1 Technical Report, Mar. 26, 2018 (PolyMet 2018 Technical Report). Filed on [www.SEDAR.com](http://www.sedar.com), Canada's official System for Electronic Document Analysis and Retrieval.

4. *Glencore Early Warning Report Form 62-103F1*, filed on SEDAR Mar. 28, 2018.

5. PolyMet 2018 Technical Report, *supra*; PolyMet Mining NorthMet Form NI 43-101 Technical Report, Oct. 12, 2012, Jan. 14, 2013, filed on SEDAR.

6. PolyMet 2018 Technical Report, *supra*.

7. S. Reed & M. de la Merced, *Glencore's Shares Drop After Justice Department Subpoena*, *The New York Times*, July 3, 2018.

8. J. Yeomans, *Glencore board forms defence committee as DoJ subpoena looms*, *The Telegraph*, July 11, 2018.

9. *Id.*, see also S. McFarlane, *Russia to buy back Rosneft stake it sold*, *MarketWatch*, June 7, 2017.

10. MDNR et al., *PolyMet Final Environmental Impact Statement (FEIS)*, Nov. 2015, 5-179, 5-181 *Tribal Comments and Co-Lead Agencies' Dispositions*, Aug. 19, 2013, provided as Exhibit 24 to *WaterLegacy Comments on PolyMet FEIS*.

11. PolyMet FEIS, 5-251.

12. Brian Branfireun, PhD, *2015 Expert Opinion on PolyMet FEIS*.

13. PolyMet FEIS, see 4-29, 4-41, 4-285.

14. Minnesota Department of Health, *Mercury Levels in Blood from Newborns in the Lake Superior Basin*, Nov. 30, 2011.

15. U.S. Forest Service, *Final Record of Decision NorthMet Project Land Exchange*, Jan. 2017, Table 2.

16. NCAI, *Protecting Chippewa Lands and Resources from the Threats Posed by PolyMet Mine*, Resolution #MKE-17-007, Oct. 20, 2017.

17. Letter to Senate Committee on Armed Services, *Minnesota, Regional & National Groups Opposed to S. Amdt. 2523*, June 11, 2018.