

STATE OF MINNESOTA

COUNTY OF RAMSEY

FILED
Court Administrator

JUL 11 2011
By  Deputy

DISTRICT COURT

SECOND JUDICIAL DISTRICT
CASE TYPE: CIVIL

Court File No. 62-CV-11-5203
Chief Judge Kathleen Gearin

In Re: Temporary Funding of
Core Functions of the
Executive Branch of the
State of Minnesota

**AFFIDAVIT OF
BRADLEY C. MOORE
IN SUPPORT OF
PETITION OF POLYMET
MINING, INC.**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Bradley C. Moore, being first duly sworn and upon oath, deposes and states as follows:

1. I am the Executive Vice President of Environmental and Governmental Affairs for PolyMet Mining, Inc. ("PolyMet"). I submit this Affidavit in support of PolyMet's petition to allow the Commissioner of the Department of Management & Budget to disburse special revenue funds, as explained in more detail in PolyMet's petition and below.

2. PolyMet is a British Columbia Corporation that proposes to construct and operate an open pit mine and processing facility to process low-grade disseminated sulfide-bearing ore into various copper, nickel, cobalt, and precious metal concentrates and precipitates ("NorthMet Project" or "Project"). The proposed Project, including the mine site, plant site, and connecting infrastructure, will be located near Hoyt Lakes in St. Louis County, Minnesota.

3. The scope and nature of the Project requires that an Environmental Impact Statement be prepared under both the Minnesota Environmental Policy Act ("MEPA"), Minn. Stat. Ch. 116D, and the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 –

4347, and regulations promulgated under each. The Minnesota Department of Natural Resources (“DNR”) is the Responsible Government Unit for the EIS required under MEPA, but currently is receiving assistance from the Minnesota Pollution Control Agency (“MPCA”) with the preparation of the NorthMet Project’s Environmental Impact Statement (“EIS” or “NorthMet EIS”). Both the U.S. Army Corps of Engineers (“USACE”) and the United States Forest Service (“USFS”) have environmental review responsibilities for the Project under NEPA.

4. DNR, USACE and USFS are serving as co-lead agencies in preparation of a joint federal-state EIS for the Project. Pursuant to a 2005 Memorandum of Understanding between DNR, USACE, USFS and Polymet (“the 2005 NorthMet MOU”), DNR holds primary responsibility for managing the NorthMet EIS’s preparation and review and for oversight of the third-party consultant hired by DNR to draft the EIS. The 2005 NorthMet MOU also directs DNR to enter into a cost agreement with PolyMet to cover third-party consultant fees and other EIS-related costs incurred by DNR. A true and correct copy of the 2005 NorthMet MOU is attached as Exhibit A to this Affidavit.

5. DNR, USACE, USFS and Polymet recently executed an updated MOU regarding the NorthMet Project (“the 2011 NorthMet MOU”). Among other things, the 2011 NorthMet MOU elevates USFS to “co-lead agency” status and provides additional information as to responsibilities between the parties for production and distribution of the Supplemental Draft EIS referenced below and the final EIS. The DNR responsibilities referenced in the preceding paragraph, however, remain unchanged. A true and correct copy of the 2011 NorthMet MOU is attached as Exhibit B to this Affidavit.

6. Minnesota environmental laws and regulations - such as Minn. Stat. § 116D.045, subd. 3 and Minn. R. §§ 4410.6000, 4410.6200, subp. 1, and 4410.6500 – require Polymet to pay

for all of the costs involved in preparing and distributing the NorthMet EIS. This includes the cost of state agency staff time (direct salary plus fringe benefit costs), as well as the cost of consultants hired by DNR.

7. In 2006, DNR and Polymet entered into a contractual agreement consistent with Minn. Stat. § 84.026, subd. 1 ("Income Contract"). The Income Contract requires Polymet to pay DNR for all services DNR, other state agencies or DNR's contractors perform in the preparation and distribution of the EIS. This includes, but is not limited to, the costs of consultant and professional services, staffing, public notification, public meetings, printing, distribution, and accounting related to the EIS. True and accurate copies of the Income Contract and its most recent amendment (#11) are together attached as Exhibit C to this Affidavit.

8. All funds DNR receives from Polymet under the Income Contract are credited by law to a special account for the limited and specific purpose of paying the assessed costs of preparing and distributing the EIS. To date, PolyMet has paid DNR approximately \$9,601,992 under the Income Contract and its eleven amendments, with an additional \$2,113,955 to be paid between now and March 31, 2012. PolyMet's next scheduled payment of \$234,883 is due to DNR on July 31 2011. PolyMet believes DNR's special revenue account for the NorthMet Project currently has a balance of over \$250,000 in funds paid by PolyMet to the DNR for further work on the EIS.

9. Out of the funds it collects from PolyMet under the Income Contract, DNR currently pays for the time (including direct salary and fringe benefit costs) of specified DNR and MPCA staff members working on the NorthMet EIS, as well as any direct costs the State incurs related to the Project.

10. In October 2009, DNR and USACE released a draft EIS (“DEIS”) and are now in the critical final stages of modeling the environmental impacts needed to prepare and distribute a Supplemental DEIS (“SDEIS”).

11. Unfortunately, environmental review for the Project will be delayed without the continued full engagement of the DNR and MPCA employees assigned to the NorthMet EIS. These employees are necessary at this stage in the EIS to provide technical direction and approval to DNR’s EIS contractor and PolyMet’s consultants and to coordinate with the federal agencies involved in the NorthMet EIS. This direction and approval includes, among other things, approval of water and wetland modeling work plans; agreement on final parameters for air, geotechnical, water and wetlands impact modeling and analysis; and direction and coordination among the numerous federal and state agencies involved in the EIS to resolve any issues as they arise.

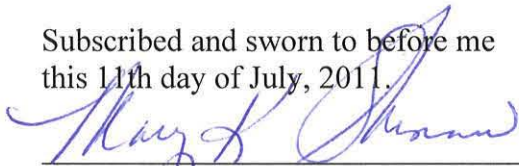
12. Prior to the Minnesota state governmental shutdown, the parties had anticipated the SDEIS to be released in late Fall 2011, with a Final EIS and permitting to follow in 2012. *See Exhibit B, Attachment 1.* PolyMet estimates once the Project is approved, it will spend approximately \$450 million on its construction, which translates to 1.25 million hours of construction labor. The Project’s operation will eventually create approximately 360 high paying jobs, with an annual payroll of \$36 million.

13. Environmental review of the NorthMet Project has lasted more than six years and has cost PolyMet over \$33 million to-date. PolyMet nevertheless cannot obtain necessary state and federal construction and operation permits until environmental review is complete. Thus, DNR’s inability to access the funds PolyMet has paid DNR to prepare and distribute the EIS not only delays completion of the environmental review process even further, it also delays the day

when the Project can begin offering a much-needed economic benefit to the northern Minnesota region.

FURTHER AFFIANT SAYETH NOT.

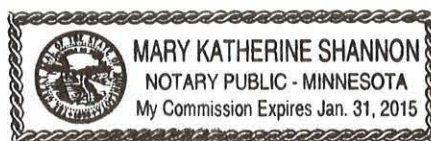
Subscribed and sworn to before me
this 11th day of July, 2011.



Notary Public



Bradley C. Moore



MEMORANDUM OF UNDERSTANDING
AMONG
THE U.S. ARMY CORPS OF ENGINEERS,
THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES,
THE U.S. FOREST SERVICE, AND POLYMET MINING, INC.
FOR THE PROPOSED
POLYMET MINING, INC. NORTHMET PROJECT IN
NORTHEASTERN MINNESOTA

Amendment #1

Summary: United States Forest Service (USFS) added to the section below:

CONFLICT RESOLUTION PROCEDURES

Every effort will be made for the USACE, USFS, and the MnDNR to reach mutual agreement regarding the issues addressed in the joint EIS. In the event that conflicts arise between the USACE, USFS, and the MnDNR on any aspect of this effort, the following procedures will be used, in sequence, to attempt to resolve these conflicts.

- The agency points of contact will make a concerted effort to resolve the dispute.
- Matters unresolved by the agency points of contact will be referred to the Commissioner or his/her designee, the USACE District Engineer or his/her designee, and the USFS Laurentian District Ranger or his/her designee for resolution.

In the event that unresolved issues remain, the agency positions will be presented in the EIS and any public summaries. Should disagreement remain over issues, impacts, or alternatives to be included and analyzed, the respective agency promoting inclusion or analysis of the issue shall be responsible for its analysis and documentation.

Michael F. Pfennig
Michael F. Pfennig, Colonel
District Engineer
U.S. Army Corps of Engineers

3-15-05
Date

Gene Merriam
Gene Merriam
Commissioner
Minnesota Department of Natural Resources

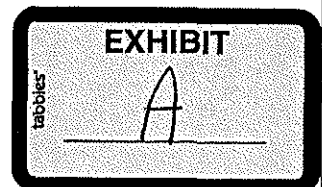
3-11-05
Date

Paul L. Sanders
for James W. Sanders
Forest Supervisor, Superior National Forest
US Forest Service

2/24/05
Date

Warren Hudelson
Warren Hudelson
PolyMet Mining, Inc.

2/25/05
Date



**MEMORANDUM OF UNDERSTANDING
AMONG
THE U.S. ARMY CORPS OF ENGINEERS,
THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES,
THE U.S. FOREST SERVICE, AND POLYMET MINING, INC.
FOR THE PROPOSED
POLYMET MINING, INC. NORTHMET PROJECT IN
NORTHEASTERN MINNESOTA**

This Memorandum of Understanding (MOU) is made and entered into this date, 2/23/05, by and among the U.S. Army Corps of Engineers (USACE), the Minnesota Department of Natural Resources (MnDNR), the U.S. Forest Service (USFS), and PolyMet Mining, Inc. (PolyMet) for the purposes of preparing a joint Environmental Impact Statement on the environmental impacts of the proposed NorthMet mining project near Babbitt, Minnesota, referred to hereafter as the proposed project.

WHEREAS, PolyMet proposes to excavate a large polymetallic disseminated magmatic sulfide deposit, approximately 6 miles south of the town of Babbitt, and process the material at the Cliffs Erie crusher/concentrator facility in Hoyt Lakes, Minnesota;

WHEREAS, the proposed project requires preparation of a mandatory state Environmental Impact Statement (EIS) under Minnesota Rules 4410.4400(8)(C), which designates the MnDNR as the Responsible Governmental Unit (RGU);

WHEREAS, the MnDNR is responsible for ensuring the Project's compliance with the Minnesota Environmental Policy Act (MEPA; Minn. Stat. ch. 116D);

WHEREAS, the proposed project will require a permit from the USACE under Section 404 of the Clean Water Act (33 U.S.C. § 1344);

WHEREAS, the proposed mine lies within the Superior National Forest, which is managed by the USFS, requiring the USFS to negotiate the operating conditions of the mining operation;

WHEREAS, the proposed project is a major Federal action significantly affecting the quality of the human environment, requiring the preparation of a Federal EIS pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321-4347) and its implementing regulations (40 C.F.R. parts 1500-1508);

WHEREAS, the USACE and the USFS are responsible for complying with NEPA;

WHEREAS, the USACE, the MnDNR, the USFS, and PolyMet have a common interest in preparing an EIS that satisfies both state and Federal requirements;

NOW THEREFORE, the USACE, the MnDNR, the USFS, and PolyMet agree as follows:

GENERAL

This MOU describes the respective responsibilities of, and procedures to be used by, the aforementioned parties. The goals of the USACE, the MnDNR, the USFS, and PolyMet are:

- to evaluate the proposed project in accordance with NEPA (42 U.S.C. §§ 4321-4347), NEPA's implementing regulations (40 C.F.R. parts 1500-1508), and MEPA (Minn. Stat. ch. 116D);

- to objectively identify, examine, and analyze the potential environmental, social, and economic impacts of the proposed project and reasonable alternatives in order to avoid, minimize, and/or mitigate the adverse impacts of the proposed project;
- to identify information that assists PolyMet in making project-related decisions;
- to ensure public involvement in the preparation and review of the EIS;
- to ensure that sufficient information is provided to assist the USACE, the MnDNR, the USFS, and other Federal, state and local agencies in regulatory decisions; and
- to reduce duplication of effort for the USACE, the MnDNR, the USFS, and PolyMet.

RESPECTIVE RESPONSIBILITIES

The USACE and the MnDNR agree to:

- Jointly develop a scope of work for EIS preparation and evaluate the MnDNR's selection of a third-party contractor to prepare the EIS.
- Utilize the MnDNR's third-party contractor process for EIS preparation.
- Jointly prepare an EIS to evaluate the proposed project in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4347, NEPA's implementing regulations, 40 C.F.R. parts 1500-1508, and the Minnesota Environmental Policy Act (MEPA), *Minn. Stat. ch. 116D*.
- Involve the USFS as a Cooperating Agency in the EIS preparation, and incorporate the USFS input to the maximum extent possible.
- Complete a final EIS that contains the positions of both the USACE and the MnDNR, and complies with their respective legal requirements.
- Report periodically on the progress of the joint EIS to PolyMet, with particular regard to identifying issues and matters that may result in delays, and to advise on proposed actions/measures to minimize delays.

U.S. ARMY CORPS OF ENGINEERS (USACE)

The USACE will serve as co-lead agency in the EIS preparation with the MnDNR. The USACE will conduct scoping jointly with the MnDNR, pursuant to both NEPA and MEPA, and provide input to the MnDNR for the EIS scope of work. The USACE will assist the MnDNR in third-party consultant selection by reviewing the Request for Proposals, reviewing the proposals submitted, and participating in consultant evaluation and interviews. The USACE will provide input to the MnDNR on consultant requirements and the acceptability of consultant candidates. The USACE will not be a party to the contract between the MnDNR and the third-party contractor. The USACE will coordinate with other Federal agencies (e.g. the U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service), and will consult with Native American Tribes, as appropriate, in the preparation of the EIS. The USACE will schedule and hold agency and public meetings jointly with the MnDNR pursuant to NEPA and MEPA. The USACE will determine whether the EIS satisfies NEPA and will prepare the Federal Record of Decision.

MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MnDNR)

The MnDNR will serve as the other co-lead agency in the EIS preparation. The MnDNR will conduct scoping jointly with USACE, pursuant to both NEPA and MEPA, and propose a preliminary scope for the EIS. The MnDNR will include NEPA-related issues, submitted by the USACE, in the proposed scope. The MnDNR will assume the lead role in third-party consultant selection, enter into a contract with the consultant, and perform all requisite contract oversight. The MnDNR will enter into a cost agreement with PolyMet to obtain funds to cover third-party consultant fees, and other EIS-related costs incurred by the MnDNR. The MnDNR will assume primary responsibility for managing the EIS preparation and review. The MnDNR will coordinate with other state agencies (e.g., the Pollution Control Agency and the Department of Transportation) and will participate with the USACE at any public meetings, public hearings, or other public involvement pursuant to NEPA and MEPA. The MnDNR will be responsible for determining EIS adequacy pursuant to MEPA, and prepare the state Record of Decision.

U.S. FOREST SERVICE (USFS)

The USFS will serve as a cooperating agency in the EIS preparation and will provide input to the USACE and the MnDNR to address the USFS issues in the document.

STANDARD OPERATING PROCEDURES

The agency points of contact, as designated herein, are authorized to develop Standard Operating Procedures (SOPs) to govern the conduct of this effort. The procedures should be adopted within ten (10) working days of execution of the MOU and may be modified from time to time by agreement of the point of contacts identified below.

CONFLICT RESOLUTION PROCEDURES

Every effort will be made for the USACE and the MnDNR to reach mutual agreement regarding the issues addressed in the joint EIS. In the event that conflicts arise between the USACE and the MnDNR on any aspect of this effort, the following procedures will be used, in sequence, to attempt to resolve these conflicts.

- The agency points of contact will make a concerted effort to resolve the dispute.
- Matters unresolved by the agency points of contact will be referred to the Commissioner or his/her designee and the USACE District Engineer or his/her designee for resolution.
- In the event that unresolved issues remain, both agency positions will be presented in the EIS and any public summaries. Should disagreement remain over issues, impacts, or alternatives to be included and analyzed, the respective lead agency promoting inclusion or analysis of the issue shall be responsible for its analysis and documentation.

SELECTION OF A THIRD-PARTY CONSULTANT

The USACE and the MnDNR will formulate criteria for selecting a third-party consultant in consultation with PolyMet. The criteria will satisfy requirements imposed upon the USACE and the MnDNR by the statutes and regulations applicable to selecting a consultant for EIS preparation.

TIME TO PREPARE EIS

To facilitate the preparation of a joint EIS, PolyMet consents to MnDNR exceeding the rule-designated

EIS preparation timelines, which are found in Minnesota Rules 4410.2000 to 4410.2800, and consents to the proposed schedule provided at Attachment 1. The proposed schedule provided at Attachment 1 is based upon the work product of the Minnesota Metallic Mining Environmental Review and Permitting Workgroup, which included representatives of the mining industry, state and Federal resource agencies, and environmental interest groups. The attached schedule is a best-case scenario, assuming no delays in the process, and may be exceeded.

EFFECTIVE DATE

The MOU will be effective upon execution by all parties hereto.

AMENDMENT

The MOU may be amended only by written agreement of all parties.

EXPIRATION OR TERMINATION

Unless specifically terminated by either the USACE or the MnDNR, this MOU will remain in effect until issuance of the state Record of Decision on the Adequacy of the EIS and the federal Record of Decision. Agency termination of the MOU is accomplished upon written notice to the other agency and PolyMet.

PolyMet may withdraw from this agreement upon written notice to both the USACE and MnDNR. Any such termination does not negate PolyMet's obligation to reimburse the State for any costs incurred to date by the third-party contractor and in closing out the third-party contract. In addition, any such termination does not negate PolyMet's obligation to provide information to the USACE and the MnDNR for their permit evaluations.

FUNDING

All obligations of the USACE under this agreement are subject to and dependent upon the appropriation and allocation of sufficient funds to the St. Paul District for such purposes.

All obligations of the MnDNR are contingent upon receipt of appropriations from the Legislature and/or other funds allotted or lawfully available for preparation of the EIS.

JUDICIAL REVIEW

Nothing in this MOU shall affect any otherwise available review of agency action. This MOU is intended only to facilitate preparation of a joint EIS and does not create any right, benefit, or legal obligation, substantive or procedural, enforceable at law or equity against the MnDNR or the USACE.

LIABILITY

Each party to this MOU shall be liable for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. Nothing in this agreement shall be deemed to be a waiver by any of the parties of any applicable state or federal immunities or limits of liability.

POINTS OF CONTACT

The agency points of contact may be changed at the discretion of the respective agencies with written notice to the other. The points of contact for this MOU are:

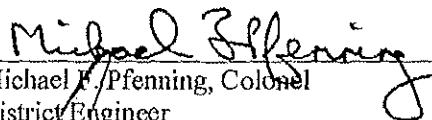
Jon Ahlness, U.S. Army Corps of Engineers, St. Paul District, Regulatory Branch, 190 5th Street East, St. Paul, MN 55101.

Tom Balcom, Minnesota Department of Natural Resources, Division of Ecological Services, Box 25, 500 Lafayette Road, St. Paul, MN 55155

Allan Bier, U.S. Forest Service, Superior National Forest, 318 Forestry Road, Aurora, MN 55705

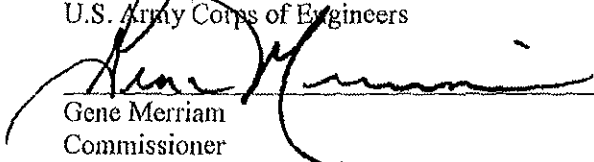
Jim Scott, PolyMet Mining, Inc, P.O. Box 475, Hoyt Lakes, MN 55750

**BY THEIR SIGNATURES, THE UNDERSIGNED ATTEST THAT THEY HAVE THE
AUTHORITY TO COMMIT TO THIS MOU ON BEHALF OF THE PARTIES THAT THEY
REPRESENT.**



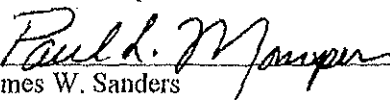
Michael F. Pfenning, Colonel
District Engineer
U.S. Army Corps of Engineers

01/20/05
Date



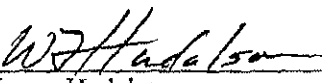
Gene Merriam
Commissioner
Minnesota Department of Natural Resources

2-9-05
Date



James W. Sanders
Forest Supervisor, Superior National Forest
US Forest Service

2/22/05
Date



Warren Hudelson
PolyMet Mining, Inc.

1/7/05
Date

Approved as to form and execution:

MIKE HATCH
Attorney General
State of Minnesota

By: 

Title: 2/23/05 ASST. AG

Date: 2/23/05

Attachment 1: Proposed EIS Schedule

Phase I: EIS Scoping	
Publish Notice of Intent (NOI) to prepare an EIS.	
Finalize Scoping EAW/Draft Scoping Decision Document (DSDD).	
Publish Scoping EAW/DSDD; initiate public review and comment period.	
Close comment period; adopt Final Scoping Decision.	
Time allotted: completed within 5 months of PolyMet data submittal.	
Phase II: Draft EIS	
Conduct State RFP process; negotiate EIS Cost Agreement; hire consultant; issue State EIS Preparation Notice.	
Prepare working Draft EIS Version I.	
Agency review of working Draft EIS Version I.	
Submit comments to consultant; revised Draft EIS Version II due.	
Finalize Public Review Draft EIS.	
Publish Public Review Draft EIS; initiate public review and comment period; close comment period.	
Time allotted: completed within 9 months of adoption of Scoping Decision.	
Phase III: Final EIS	
Develop Responses to Comments on Draft EIS; develop additional information from review of Draft EIS.	
Publish Final EIS; initiate public review and comment period; close comment period.	
Time allotted: completed within 5 months of close of DEIS comment period.	
Phase IV: Record of Decision	
Adopt State EIS Adequacy Decision; publish Federal Record Of Decision.	
Time allotted: completed within 2 months of close of FEIS comment period.	
Total time allotted Phases I-IV: 21 months	

**MEMORANDUM OF UNDERSTANDING AMONG THE U.S. ARMY CORPS OF
ENGINEERS, THE U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE,
THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES,
AND POLYMET MINING, INC.
FOR THE PROPOSED NORTHMET MINING PROJECT AND ASSOCIATED LAND
EXCHANGE IN NORTHEASTERN MINNESOTA**

This Memorandum of Understanding (MOU) is made and entered into this date, June 20, 2011, by and among the U.S. Army Corps of Engineers (USACE), the U.S. Department of Agriculture Forest Service (USFS), the Minnesota Department of Natural Resources (MnDNR), and PolyMet Mining, Inc. (PolyMet) for the common purpose of preparing a joint Federal-State environmental impact statement (EIS) for the proposed NorthMet project and the associated land exchange near Hoyt Lakes and Babbitt, Minnesota, referred to hereafter as NorthMet or the Proposed Project or the Project.

A. GENERAL

PolyMet proposes to excavate a large polymetallic disseminated magmatic sulfide deposit approximately 6 miles south of the town of Babbitt, Minnesota. The Proposed Project will require a permit from the USACE under Section 404 of the Clean Water Act (33 U.S.C. § 1344), and a land exchange agreement with the USFS in accordance with the Weeks Act of 1911, amongst other state and local permits. The Proposed Project is a major Federal action affecting the quality of the human environment requiring the preparation of a Federal EIS pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321-4347) and its implementing regulations (40 C.F.R. parts 1500-1508). The Proposed Project requires preparation of a mandatory State EIS under the Minnesota Environmental Policy Act (MEPA) and *Minnesota Rules*, part 4410.4400(8)(C), which designates the MnDNR as the Responsible Governmental Unit (RGU). USACE, USFS, and MnDNR are preparing a joint supplemental draft environmental impact statement (SDEIS) for the Proposed Project.

The signatories of this MOU have a common interest in preparing an EIS that satisfies both Federal and State requirements and provides the information necessary to support their regulatory responsibilities. Therefore, the USACE, the USFS, and the MnDNR agree to:

- Evaluate the Proposed Project in accordance with NEPA, NEPA's implementing regulations, MEPA (*Minnesota Statutes*, chapter 116D), and MEPA's implementing rules (*Minnesota Rules*, chapter 4410), in addition to all other controlling law.
- Identify, examine, and analyze the potential environmental, social, cultural, and economic impacts of the Proposed Project and reasonable alternatives in order to avoid, minimize, and/or mitigate the adverse impacts of the Proposed Project.
- Identify, examine, and analyze the potential project-specific impacts and cumulative impacts to the human environment, including tribal resources.
- Identify information that assists PolyMet in making project-related decisions.
- Ensure public involvement in the preparation and review of the EIS.
- Ensure that sufficient information is provided to assist the USACE, USFS, MnDNR, and

- other Federal, Tribal, State, and Local agencies in regulatory decisions.
- Reduce duplication of effort between the USACE, USFS and MnDNR.

B. RESPECTIVE PARTICIPANT RESPONSIBILITIES Relative to this agreement

1. USACE, USFS, MnDNR: LEAD AGENCIES

Since both USACE and USFS have Federal actions pertaining to the Project, these agencies have elected to become co-lead Federal agencies for the implementation of NEPA and the preparation of the SDEIS and FEIS. The Project also requires preparation of a mandatory State EIS under MEPA and *Minnesota Rules*, part 4410.4400(8)(C), which designates the MnDNR as the Responsible Governmental Unit (RGU), or lead State agency. At MnDNR's request, the Minnesota Pollution Control Agency (MnPCA) is assisting in the preparation of the SDEIS, and will also assist in preparing the final EIS (FEIS).

USACE, USFS, and MnDNR are co-lead agencies for the joint Federal-State EIS. As such, these agencies are responsible for the content of the SDEIS and FEIS, and have final authority over the language used in the document.

USACE and USFS agree to give full respect and recognition to the jurisdiction and special expertise of the cooperating and participating agencies; however, USACE and USFS are responsible for assuring that the EIS addresses impacts to the quality of the natural and human environment associated with the Proposed Project, as prescribed under NEPA. In meeting this responsibility, USACE and USFS will be guided by the NEPA implementing regulations of the Council on Environmental Quality (40 CFR part 1500 et seq.). USACE and USFS will retain ultimate responsibility for EIS's content (CEQ's 40 Questions, No. 14b, and *see* 40 CFR § 1501.6(a)(2)) in conjunction with MnDNR. This includes defining the issues, determining purpose and need of the project, selecting or approving alternatives and mitigation measures, reviewing and requiring modification of the EIS, responding to comments on the DEIS and SDEIS, and retaining responsibility for the conclusions of its environmental analysis.

a. The USACE, USFS, and the MnDNR agree to:

- Prepare a joint Federal-State EIS to evaluate the Proposed Project in accordance with NEPA and MEPA and that will allow the USACE and the USFS to each issue a Record of Decision and the MnDNR to make a Determination of EIS Adequacy, which complies with their respective legal requirements.
- Facilitate the preparation of an EIS that will provide the information necessary for each signatory to properly address potential environmental impacts of the proposal under their jurisdiction.
- Jointly share responsibility for managing the EIS preparation and review.
- Identify a project manager within each agency.
- Conduct scoping jointly pursuant to both NEPA and MEPA.
- Jointly participate at any public meetings, public hearings, or other public involvement pursuant to NEPA and MEPA.
- Jointly develop and manage the scope of work for third-party consultant EIS preparation.

- Should the need arise, formulate criteria for selecting a third-party consultant, taking into consideration comments from PolyMet. The criteria will satisfy requirements imposed upon the USACE, USFS, and the MnDNR by the statutes and regulations applicable to selecting a consultant for EIS preparation.
- Utilize the MnDNR's contracting process to select and manage the third-party contractor selected to become the EIS consultant. Fees for the third-party EIS contractor will be obtained from PolyMet via a cost agreement between MnDNR and PolyMet. Neither USACE nor USFS will be responsible for any costs associated with MnDNR's contract for the EIS consultant. The USFS may separately contract with a third-party contractor to provide services outside of the scope of the MnDNR contract.
- Develop, maintain, and utilize a Communication and Coordination Plan in a collaborative environment that identifies workgroup teams and team member roles and responsibilities.
- Designate a member within each agency to be in charge of approving the schedule of milestones, changes to milestones and the release of joint public documents.
- Coordinate, as appropriate, with other State and Federal agencies (e.g., the Minnesota Pollution Control Agency (MnPCA), the Minnesota Department of Health, the Minnesota Department of Transportation, U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service) to obtain participation, feedback, input and comments regarding the SDEIS and FEIS.
- Identify agencies with statutory responsibility, agency mission, or special expertise and invite them to participate as cooperating or participating agencies in the EIS process.
- Make a good faith effort to achieve full and timely participation of cooperating agencies in accordance with the established schedule.
- Use input from cooperating agencies that is based on the cooperating agencies' jurisdiction or special expertise in the development of the EIS to the maximum extent possible consistent with the co-lead agencies' responsibilities.
- Affirm procedures for ensuring confidentiality of sensitive information submitted by PolyMet and other parties.
- Jointly determine the date for SDEIS and FEIS printing and public release consistent with the agencies' respective assessments of the document's accuracy and completeness, and notify the cooperating agencies and PolyMet at the earliest possible time of these dates.
- Determine appropriate schedules and deadlines, in consultation with the cooperating agencies and PolyMet, for review and comment on draft documents prior to issuance of the SDEIS and FEIS. Any preliminary EISs will be circulated among the lead and cooperating agencies for comment before their public release.
- Report periodically on the progress of the EIS to PolyMet, with particular regard to identifying issues and matters that may result in delays, and advise on proposed actions and measures to minimize delays.
- Resolve disagreements or conflicts at the appropriate level, consistent with the communications structure provided in the Coordination and Communication Plan.
- The Coordination and Communication Plan is incorporated, as amended, by reference into this MOU.

b. U.S. Army Corps of Engineers (USACE) agrees to:

- Consult with Indian Tribes in accordance with Federal law and regulations in the preparation of the EIS.
- Use the information and environmental analysis provided by the cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with USACE responsibility as a co-lead Federal agency (40 CFR § 1501.6(a)(2)).
- Lead Federal analysis of portions of the EIS pertaining to the mining project and participate in Federal analysis of portions of the EIS pertaining to the land exchange.
- Assist the MnDNR in third-party consultant selection by providing input on consultant requirements, reviewing and providing comments on the Request for Proposal, reviewing and rating submitted proposals, and participating in consultant evaluation meetings and interviews. The USACE will not be a party to the contract between the MnDNR and the third-party contractor.
- Schedule and hold agency and public meetings jointly with the USFS and MnDNR pursuant to NEPA and MEPA.
- Meet with cooperating agencies at their request.
- Ensure, in conjunction with the USFS, that the EIS satisfies NEPA and its implementing regulations.
- Prepare a Federal Record of Decision in support of the USACE Clean Water Act Section 404 permit decision.
- Assure final agency decisions are in compliance with applicable Federal laws, rules, guidance, and executive orders.

c. The U.S. Forest Service

The Forest Service authority to exchange land comes from the Weeks Act of 1911, provided the Federal land has acquired-lands status according to the Act. This is the principle authority for the Proposed NorthMet land exchange. The Federal Land Policy and Management Act of 1976 established procedures for land exchanges with non-federal parties. The guidelines are described in the Code of Federal Regulations Part 254, Subpart A, Title 36, including 254.3(g) conducting environmental analysis according to NEPA and 254.8(a) publishing a notice of land exchange once a week for four consecutive weeks in newspapers of general circulation in the affected counties.

The U.S. Forest Service Agrees to:

- Consult with Indian Tribes in accordance with Federal law and regulations in the preparation of the EIS.
- Use the information and environmental analysis provided by the cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with USFS responsibility as a co-lead Federal agency (40 CFR § 1501.6(a)(2)).
- Lead Federal analysis of portions of the EIS pertaining to the land exchange and participate in Federal analysis of portions of the EIS pertaining to the mining project.
- Assist the MnDNR in third-party consultant selection by providing input on consultant

- requirements, reviewing and providing comments on the Request for Proposal, reviewing and rating submitted proposals, and participating in consultant evaluation meetings and interviews. USFS will not be a party to the contract between the MnDNR and the third-party contractor.
- Schedule and hold agency and public meetings jointly with the USACE and MnDNR pursuant to NEPA and MEPA.
 - Meet with cooperating agencies at their request.
 - Ensure, in conjunction with the USACE, that the EIS satisfies NEPA and its implementing regulations.
 - Prepare a Federal Record of Decision to support the USFS decision on the land exchange.
 - Assure final agency decisions are in compliance with applicable Federal laws, rules, guidance, and executive orders, in support of the agency action.

d. Minnesota Department of Natural Resources (MnDNR)

The MnDNR is a co-lead agency and is the RGU for the state of Minnesota. Both the MnDNR and the MnPCA will rely on the EIS to inform their permitting decisions on this project. MnDNR's state permits include the Permit to Mine, Dam Safety Permit, and Water Appropriations Permit. MnPCA permits include the federally delegated Title V Air Emissions Permit and National Pollutant Discharge Elimination System (NPDES) Water Discharge Permit.

The MnDNR agrees to:

- Serve as the state co-lead agency in the EIS preparation. Include NEPA-related issues, submitted by the USFS and the USACE, in the proposed scope.
- Lead state analysis of all portions of the EIS, including both the land exchange and mining project.
- Assume the lead role in third-party consultant selection, enter into a contract with the consultant, and perform all requisite contract oversight.
- Enter into a cost agreement with PolyMet to obtain funds to cover third-party consultant fees, and other EIS-related costs incurred by the State.
- Be responsible for ensuring the EIS's compliance with MEPA (*Minnesota Statutes*, chapter 116D) and its implementing rules (*Minnesota Rules*, chapter 4410); and prepare the state Determination of EIS Adequacy.

2. POLYMET

PolyMet is the project proposer. The co-lead agencies rely on the project proposer to supply data and conduct studies based on data that is primarily within its control. Minnesota law requires that the project proposer reimburse the state for reasonable costs associated with EIS preparation.

PolyMet agrees to:

- Provide detailed project description documentation for use in preparing the EIS.
- Provide, upon request, data and information about baseline conditions and predicted impacts about the Proposed Project, reasonable alternatives, and mitigation measures for consideration and use in preparing the EIS.

- Review and provide comments on preliminary draft versions of the EIS document for technical content derived from PolyMet's contributions to the EIS.
- Consent to MnDNR exceeding the rule-designated EIS preparation timelines, which are found in *Minnesota Rules*, parts 4410.2000 to 4410.2800, and consent to the proposed schedule provided in Attachment 1 to this MOU. However, the parties acknowledge that the attached schedule is a best-case scenario assuming no delays in the process, and may be exceeded.

C. ADMINISTRATIVE

Prior MOU Terminated

Upon signature by all parties hereto, this MOU will supersede and terminate the REVISED MEMORANDUM OF UNDERSTANDING AMONG THE U.S. ARMY CORPS OF ENGINEERS, THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES, THE U.S.D.A. FOREST SERVICE, THE BOIS FORTE BAND OF CHIPPEWA, THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA, AND POLYMET MINING, INC. FOR THE PROPOSED POLYMET MINING, INC. NORTHMET PROJECT IN NORTHEASTERN MINNESOTA, dated May 19, 2008.

Effective Date

The MOU will be effective upon execution by all parties hereto.

Amendment

The MOU may be amended only by written agreement of all parties.

Expiration or Termination

Unless specifically terminated by the USACE, USFS, or the MnDNR, this MOU will remain in effect until issuance of the Federal Records of Decision and the State Determination of EIS Adequacy. Agency termination of the MOU is accomplished upon written notice to the other co-lead agencies and PolyMet.

PolyMet may withdraw from this MOU upon written notice to the USACE, USFS, and MnDNR. Any such termination does not negate PolyMet's obligation to reimburse the State for any costs incurred to date by the third-party contractor and in closing out the third-party contract. In addition, any such termination does not negate PolyMet's obligation to provide information to the lead agencies for their evaluations in support of permit, license, grant or other agency action.

Funding

All obligations of the USACE under this agreement are subject to and dependent upon the appropriation and allocation of sufficient funds to the St. Paul District for such purposes.

All obligations of the USFS under this agreement are subject to and dependent upon the appropriation and allocation of sufficient funds to the Superior National Forest for such purposes.

All obligations of the MnDNR are contingent upon receipt of appropriations from the Legislature

and/or other funds allotted or lawfully available for preparation of the EIS.

Judicial Review

Nothing in this MOU shall affect any otherwise available review of agency action. This MOU is intended only to facilitate preparation of a joint Federal-State EIS and does not create any right, benefit, or legal obligation, whether substantive or procedural, or enforceable at law or equity, against the USACE, the USFS, the MnDNR, or any other party to this MOU.

Liability

Each party to this MOU shall be liable for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. Nothing in this MOU shall be deemed to be a waiver by any of the parties of any applicable state or Federal immunities or limits of liability.

Comments

All comments, notices, or other writings required under this MOU may be sent by electronic mail. However, documents sent by electronic mail will be followed by hardcopies through the U.S. Mail or other delivery service.

Points of Contact

The agency points of contact may be changed at the discretion of the respective agencies with written notice to the other parties. The points of contact for this MOU are:

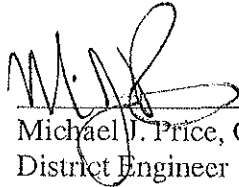
Jon Ahlness, U.S. Army Corps of Engineers, St. Paul District, Regulatory Branch, 180 5th Street East, Suite 700, St. Paul, MN 55101-1678. E-mail: jon.k.ahlness@usace.army.mil .

Tom Hale, U.S. Forest Service, TEAMS Enterprise, 5062 W 7660 S, West Jordan, UT 84081. E-mail: thale@fs.fed.us .

Stuart Arkley, Minnesota Department of Natural Resources, Division of Ecological and Water Resources, 500 Lafayette Road, St. Paul, MN 55155-4025. E-mail: stuart.arkley@state.mn.us .

Jim Scott, PolyMet Mining, Inc., P.O. Box 475, Hoyt Lakes, MN 55750. E-mail: jrscott@frontiernet.net.

BY THEIR SIGNATURES, THE UNDERSIGNED ATTEST THAT THEY HAVE THE
AUTHORITY TO COMMIT TO THIS MOU ON BEHALF OF THE PARTIES THAT
THEY REPRESENT.

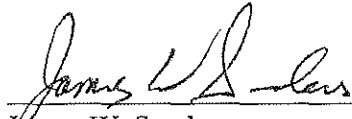


Michael J. Price, Colonel
District Engineer
U.S. Army Corps of Engineers

8 June 2011

Date

**BY THEIR SIGNATURES, THE UNDERSIGNED ATTEST THAT THEY HAVE THE
AUTHORITY TO COMMIT TO THIS MOU ON BEHALF OF THE PARTIES THAT
THEY REPRESENT.**

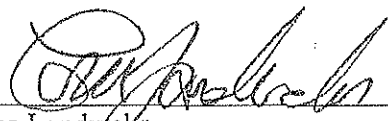


James W. Sanders
Forest Supervisor, Superior National Forest
U.S.D.A. Forest Service

6/02/2011

Date

BY THEIR SIGNATURES, THE UNDERSIGNED ATTEST THAT THEY HAVE THE
AUTHORITY TO COMMIT TO THIS MOU ON BEHALF OF THE PARTIES THAT
THEY REPRESENT.

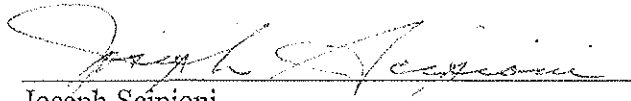


Thomas Landwehr
Commissioner
Minnesota Department of Natural Resources

5/27/11

Date

**BY THEIR SIGNATURES, THE UNDERSIGNED ATTEST THAT THEY HAVE THE
AUTHORITY TO COMMIT TO THIS MOU ON BEHALF OF THE PARTIES THAT
THEY REPRESENT.**



Joseph Scipioni
President and CEO
PolyMet Mining, Inc.

6-30-11

Date

Attachment 1: Proposed EIS Milestones and Time Frames

Phase I: EIS Scoping
<i>Notice of Intent (NOI) to prepare an EIS published on August 19, 2008.</i>
Finalize Scoping EAW/Draft Scoping Decision Document (DSDD).
Publish Scoping EAW/DSDD; initiate public review and comment period.
End of public comment period; adopt Final Scoping Decision.
Retain Consultant/Contractor to assist in scoping process and preparation of EIS.
<u><i>EIS Preparation Notice published on April 6, 2009.</i></u>
Time allotted: Completed within 6 months from issuance of NOI.
Phase II: Draft EIS
EIS Consultant prepares working-draft chapters for EIS.
Lead and cooperating agencies review and comment on working-draft chapters for EIS.
Comments provided to Consultant; prepare Preliminary Draft EIS (PDEIS).
Submit PDEIS for lead and cooperating agency 30-day review and comment.
All agencies submit comments on PDEIS.
Consultant prepares DEIS.
<u><i>DEIS published for public review and comment period in the EQB Monitor on November 2, 2009 and in the Federal Register on November 6, 2009.</i></u>
<u><i>Review and comment period closed on February 3, 2010.</i></u>
Time allotted: Completed within 10-12 months from issuance of EIS Preparation Notice.
Phase III: Supplemental Draft EIS
<i>Notice of Intent (NOI) to prepare a Supplemental Draft EIS published on October 13, 2010.</i>
EIS Consultant prepares working-draft chapters for EIS.
Lead and cooperating agencies review and comment on working-draft chapters for EIS.
Comments provided to Consultant; prepare Preliminary Supplemental Draft EIS (PSDEIS).
Submit PSDEIS for lead and cooperating agency 30-day review and comment.
All agencies submit comments on PSDEIS.
Consultant prepares SDEIS.
Publish SDEIS for public review and comment period.

Close of review and comment period.
Time allotted: Completed within 12 - 14 months from issuance of EIS Preparation Notice.
Phase IV: Final EIS
Prepare responses to comments on DEIS and develop additional information as required.
Publish Final EIS for public review and comment.
Time allotted: Completed within 3 - 6 months from close of DEIS comment period.
Phase V: Record of Decision
Adopt State EIS Adequacy Decision; publish Federal Record Of Decision.
Time allotted: Completed within 2 months from close of FEIS comment period, (90 days total time after the notice of availability of the FEIS is published in the Federal Register).



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-4000

April 5, 2006

Warren Hudelson
Executive Vice President- Development
PolyMet Mining, Inc.
PO Box 475
County Road 666
Hoyt Lakes, MN 55750

RE: PolyMet/State of Minnesota EIS Income Agreement

Dear Mr. Hudelson:

Please find enclosed an original, signed copy of the executed income agreement, numbered A87462, for EIS preparation.

As the income contract was executed on Monday, April 3, 2006, the initial payment is due within 10 days of this date rather than the March 25, 2006, date in the schedule on Page 1.

If you have any questions, please contact me at (651) 259-5089.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stuart Arkley".

Stuart Arkley
Planner Principal
Environmental Policy and Review
Ecological Services Division

COPY

DNR Information: 651-296-6157 • 1-888-646-6367 • TTY: 651-296-5484 • 1-800-657-3929

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EXHIBIT

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C

**STATE OF MINNESOTA
INCOME CONTRACT**

This contract is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and PolyMet Mining, Inc., P.O. Box 475, Hoyt Lakes, MN 55750-0475 ("Purchaser").

Recitals

1. Under Minn. Stat. § 116D.045 and Minn. Rules part 4410.6000 to 4410.6200 the State is empowered to enter into income contracts.
2. The Purchaser is in need of meeting the procedural requirement of having an Environmental Impact Statement (EIS) completed for their proposed NorthMet Mine and Ore Processing Facility (Project) in St. Louis County, Minnesota, before it can proceed.
3. The State represents that it is duly qualified and agrees to provide the services described in this contract.

Contract

1 Term of Contract

- 1.1 **Effective date:** March 15, 2006, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
- 1.2 **Expiration date:** June 30, 2007, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2 State's Duties

Pursuant to Minn. Rules part 4410.2000 to 4410.2800, the Minnesota Department of Natural Resources (DNR) will prepare a draft EIS; provide for a draft EIS public review and comment period; conduct a public informational meeting; and prepare a final EIS that meets the requirements for adequacy established in Minn. Rules part 4410.2800. Pursuant to Minn. Rules part 4410.6500, subp. 1(A), the State will not begin preparation of the draft EIS until the Purchaser has compensated the State for costs of scoping the EIS that exceeded the amount estimated by the DNR in the February 17, 2005, income agreement.

3 Payment

The Purchaser will pay the State for all services performed by the State under this contract as follows: Purchaser shall reimburse the State \$1,677,533.00 for costs of consultant and professional services, staffing, counsel, travel, public notification, public meetings, printing, distribution, and accounting related to the project EIS. A contingency of \$81,365.00 shall be provided for approved additional document review, data collection and/or analysis. The total estimated obligation of the Purchaser for all compensation and reimbursements to the State under this contract is \$1,758,898.00. A cost breakdown is included in Attachment A and is incorporated into this contract. This cost estimate is based on the EIS preparation schedule included in Attachment B.

Terms of payment:

The Purchaser shall remit payment on the following schedule:

03/25/06	\$879,449.00 (one-half total estimated costs within 10 days of Income Contract execution)
09/15/06	\$586,299.00 (one-third total estimated costs prior to completion of draft EIS)
03/01/07	\$293,150.00 (one-sixth total estimated costs prior to completion of final EIS)
06/30/07	Final Payment on any outstanding RGU/consultant costs (EIS adequacy determined)

Upon receipt of each payment by the Purchaser, the State will furnish the Purchaser an itemized invoice for the actual incurred costs and services performed.

Income Contract No. _____

(Provided by Department of Administration)

Pursuant to Minn. Rules part 4410.6500, subp. 1(d), the State shall refund the overpayment, if the cash payments made by the Purchaser exceed the State's actual EIS costs. The refund shall be paid within 30 days of completion of the State of the accounting of the EIS costs.

4 Authorized Representatives

The State's Authorized Representative is Stuart Arkley, Planner Principal, Division of Ecological Services, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4025, 651-259-5089, or his successor.

The Purchaser's Authorized Representative is Jim R. Scott, Assistant Project Manager, PolyMet Mining, Inc., P.O. Box 475, Hoyt Lakes, MN 55750-0475, 218-225-4417 ext. 4235.

5 Amendments, Waiver, and Contract Complete

5.1 Amendments. Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

5.2 Waiver. If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.

5.3 Contract Complete. This contract contains all negotiations and agreements between the State and the Purchaser. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof.

7 Government Data Practices

The Purchaser must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Purchaser or the State.

If the Purchaser receives a request to release the data referred to in this Clause, the Purchaser must immediately notify the State. The State will give the Purchaser instructions concerning the release of the data to the requesting party before the data is released.

8 Publicity

Any publicity regarding the subject matter of this contract must not be released without prior written approval from the State's Authorized Representative.

9 Audit

Under Minn. Stat. § 16C.05, subd. 5, the Purchaser's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a total of six years.

10 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal proceedings out of this contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11 Termination

Either party may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.

COPY

Income Contract No. A87462

(Provided by Department of Administration)

1. PURCHASER

By: WARREN HUDELBORN WS/Hude/50

Title: EXECUTIVE VICE PRESIDENT - DEVELOPMENT

Date: 3/22/06

2. STATE AGENCY

By: Rev. A. Gammeller
(with delegated authority)

Title: Director

Date: 3/28/06

3. COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: Sandra J. Lueck

Date: 4/3/06

COPY

ATTACHMENT A
PolyMet EIS Preparation Costs

	Hourly Rate	Hours	Cost
<u>DNR Staff Costs</u>			
DNR Ecological Services			
Planner Principal	\$70.00	2600	\$182,000.00
Natural Resource Specialists (Wetlands)	\$70.00	54	\$3,780.00
DNR Division of Waters			
Mining Hydrologist	\$70.00	1126	\$78,820.00
DNR Division of Lands & Minerals			
Principal Engineer	\$70.00	1040	\$72,800.00
Principal Engineer	\$70.00	1040	\$72,800.00
Principal Engineer	\$70.00	520	\$36,400.00
Principal Engineer	\$70.00	260	\$18,200.00
Mineland Reclamation Field Supervisor	\$70.00	520	\$36,400.00
Mineland Reclamation Field Supervisor	\$70.00	260	\$18,200.00
Engineering Specialist	\$70.00	52	\$3,640.00
Mineland Reclamation Specialist Sr.	\$70.00	1040	\$72,800.00
Mineland Reclamation Specialist Sr.	\$70.00	52	\$3,640.00
Project Consultant Senior	\$70.00	52	\$3,640.00
DNR Division of Fish and Wildlife			
Natural Resource Specialists (Fisheries)	\$70.00	60	\$4,200.00
DNR Subtotal			\$607,320.00
<u>MPCA Staff Costs</u>			
Manager - Mining	\$70.00	200	\$14,000.00
Supervisor - Mining	\$70.00	300	\$21,000.00
Planner Principal	\$70.00	160	\$11,200.00
Engineer Principal - Water Quality	\$70.00	160	\$11,200.00
Research Scientist 3 - Water Quality (Mercury)	\$70.00	40	\$2,800.00
Hydrologist 3	\$70.00	500	\$35,000.00
Senior Engineer - Water Quality Standards	\$70.00	150	\$10,500.00
Research Scientist - Water Quality (Var)	\$70.00	160	\$11,200.00
Engineer Senior - Air Quality Permits	\$70.00	500	\$35,000.00
Research Scientist 2 - Air Quality Toxics	\$70.00	20	\$1,400.00
Research Scientist - Air Quality (Modeling)	\$70.00	140	\$9,800.00
Engineer Principal - Air Quality (Mercury)	\$70.00	40	\$2,800.00
MPCA Subtotal			\$165,900.00

MDH Staff Costs

Supervisor	\$70.00	5	\$350.00
Research Scientist 3 (Human Health, Fiber Analysis Manager)	\$70.00	100	\$7,000.00
Research Scientist 2 (Air Quality AERA)	\$70.00	20	\$1,400.00
MDH Subtotal			\$8,750.00

STATE Direct Costs

Printing/Copying/Mailing			
Draft EIS			\$30,000.00
Final EIS			\$4,000.00
Hearings and Notices			\$4,000.00
Travel & Lodging (out of state)*			\$44,000.00
*(Limited to staff working directly on EIS issues related to site being visited)			
DIRECT COSTS Subtotal			\$82,000.00

EIS Consultant Costs

EIS Contract			\$813,654.00
10% Contingency for additional data collection/review/analysis			\$81,365.00
EIS Consultant Subtotal			\$895,019.00

GRAND TOTAL	\$1,758,989.00
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COPY

ATTACHMENT B

PolyMet EIS Estimated Schedule

Execute EIS Income Agreement	March 21, 2006
Execute EIS Consultant Contract	March 31, 2006
EIS Preparation Notice	April 10, 2006
Issue Draft EIS	October/November 2006
Public Meeting	November/December 2006
Issue Final EIS	March/April 2007
EIS Adequacy Determination	May/June 2007

COPY

AMENDMENT NO. 11 TO CONTRACT # A87462

Contract Start Date:	<u>April 3, 2006</u>	Total Contract Amount:	<u>\$11,715,947.00</u>
Original Contract Expiration Date:	<u>June 30, 2007</u>	Original Contract:	<u>\$1,758,898.00</u>
		Previous Amendment(s)	
Current Contract Expiration Date:	<u>April 2, 2011</u>	Total:	<u>\$7,138,445.00</u>
Requested Contract Expiration Date:	<u>April 1, 2012</u>	This Amendment:	<u>\$2,818,604.00</u>

This amendment is by and between the State of Minnesota, through its Department of Natural Resources Commissioners office (hereinafter "State") and PolyMet Mining, Inc., P.O. Box 475, Hoyt Lakes, MN 55750-0475 ("Purchaser").

Recitals

1. The State has a contract with the Purchaser identified as "CFMS Contract Number A87462" (Original Contract) to reimburse the State for costs incurred in preparing an Environmental Impact Statement (EIS) for its proposed NorthMet Project.
2. The Original Contract is being amended to extend the expiration date of the contract and increase the contract amount to plan for the next phases of EIS development.
3. The State and the Contractor are willing to amend the Original Contract as stated below.

Contract Amendment

REVISION 1. Clause 1. "Term of Contract" is amended as follows:

- 1.1 *Effective date:* March 15, 2006, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
- 1.2 *Expiration date:* ~~April 2, 2011~~ April 1, 2012, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

REVISION 2. Clause 3. "Payment" is amended as follows:

The Purchaser will pay the State for all services performed by the State under this contract as follows: Purchaser shall reimburse the State ~~\$8,897,343~~ \$11,715,947.00 for costs of consultant and professional services, staffing, counsel, travel, public notification, public meetings, printing, distribution, and accounting related to the project EIS. ~~A contingency of \$208,528.00 is included in this total for approved additional document review, data collection and/or analysis by the State's Contractor. A cost breakdown is included in Attachment A (as revised June 7, 2011)~~ March 4, 2011 and is incorporated into this contract. This amendment secures funding for the State and its contractor to coordinate with cooperating agencies, issue a draft EIS, ~~hold two public meetings, conduct a preliminary assessment of public comments, create a scope of work to complete the EIS~~ conduct impact assessment and identify mitigation, and complete a second supplemental draft EIS, hold at least two public meetings, and conduct a preliminary review of the SDEIS public comments. The cost and preparation period for the ~~second supplemental~~ second supplemental draft EIS document is dependent on the amount of additional data collection and analysis needed to respond to comments on the draft EIS, ~~and to address recent changes to the project description as proposed by PolyMet, to assist in the creation of a potential tailings basin alternative, assess the agency draft alternative and any other alternative(s), and to incorporate information generated by the U.S. Forest Service and coordinate with them as a lead agency in EIS preparation.~~

Attachment B to the original income agreement is no longer in effect.

Terms of payment:

\$879,499.00 was remitted by the Purchaser in April 2006
 \$480,000.00 was remitted by the Purchaser in May 2006
 \$489,409.00 was remitted by the Purchaser in August 2007
 \$489,409.00 was remitted by the Purchaser in September 2007

\$489,409.00 was remitted by the Purchaser in February 2008
 \$220,380.00 was remitted by the Purchaser in April 2008
 \$220,380.00 was remitted by the Purchaser in June 2008
 \$251,040.00 was remitted by the Purchaser in August 2008
 \$251,040.00 was remitted by the Purchaser in October 2008
 \$187,945 was remitted by the Purchaser in December 2008
 \$187,945 was remitted by the Purchaser in January 2009
 \$187,945 was remitted by the Purchaser in February 2009
 \$187,945 was remitted by the Purchaser for March 2009
 \$147,540 was remitted by the Purchaser for April 2009
 \$147,540 was remitted by the Purchaser for May 2009
 \$147,540 was remitted by the Purchaser for June 2009
 \$147,540 was remitted by the Purchaser for July 2009
 \$147,026 was remitted by the Purchaser for August 2009
 \$147,026 was remitted by the Purchaser for September 2009
 \$147,026 was remitted by the Purchaser for October 2009
 \$147,026 was remitted by the Purchaser for November 2009
 \$147,026 was remitted by the Purchaser for December 2009
 \$197,186.66 was remitted by the Purchaser for January 2010
 \$197,186.66 was remitted by the Purchaser for February 2010
 \$197,186.66 was remitted by the Purchaser for March 2010
 \$184,926 was remitted by the Purchaser for April 2010
 \$184,926 was remitted by the Purchaser for May 2010
 \$184,927 was remitted by the Purchaser for June 2010
\$211,485 was remitted by the Purchaser for July 2010
\$211,485 was remitted by the Purchaser for August 2010
\$211,485 was remitted by the Purchaser for September 2010
\$211,485 was remitted by the Purchaser for October 2010
\$211,485 was remitted by the Purchaser for November 2010
\$211,485 was remitted by the Purchaser for December 2010
\$211,485 was remitted by the Purchaser for January 2011
\$211,485 was remitted by the Purchaser for February 2011

The Purchaser shall remit payment on the following schedule:

03/31/11 \$211,485 (final payment from Amendment 10, if not already remitted)

04/30/11 \$234,883.00
05/31/11 \$234,883.00 - NO INVOICE
06/30/11 \$234,883.00
07/31/11 \$234,883.00
08/31/11 \$234,883.00
09/30/11 \$234,883.00
10/31/11 \$234,883.00
11/30/11 \$234,883.00
12/31/11 \$234,883.00
01/31/12 \$234,883.00
02/29/12 \$234,883.00
03/31/12 \$234,891.00

AMENDMENT NO. 11 TO CONTRACT # A87462

The State has individual, hourly Professional Service Rates for each division. These rates are subject to periodic review and change by the State and may increase or decrease during the Contract period. The current rates are available to the Purchaser upon request.

Final Payment on any outstanding RGU/consultant costs is due before any state agency permits can be issued.

~~The State will furnish an invoice for each payment approximately one month before the due date of that payment. Upon receipt of each payment by the Purchaser, the State will furnish the Purchaser an itemized invoice for the actual incurred costs and services performed. The State will provide the Purchaser with an itemized estimate of RGU/consultant costs to date on or about the 15th day of each month over the course of the contract. The reporting becomes effective after the contract has been in force for at least one month. The State and Purchaser will assess the status of the current contract balance quarterly over the term of the contract. If it is determined that the fund balance is in excess of projected RGU/consultant costs required over the next quarter, then the excess balance will be credited to upcoming invoice(s) in consultation with the Purchaser.~~

Except as amended herein, the terms and conditions of the Original Contract and all previous amendments remain in full force and effect.

1. PURCHASER

The Contractor certifies that the appropriate person(s) have executed the contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]
Title: PRESIDENT & CEO
Date: MARCH 14, 2011

2. STATE AGENCY

Individual certifies the applicable provisions of Minn. Stat. §16C.08, subdivisions 2 and 3 are reaffirmed.

By: [Signature]
(with delegated authority)
Title: Ecological & Wet Resources Director
Date: 3/15/11

3. COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: [Signature]
Date: MARCH 16, 2011

Distribution:
Agency
Contractor
State's Authorized Representative - Photo Copy

ATTACHMENT A to Income Contract # A87462, Amendment 11

PolyMet EIS Estimated Preparation Costs - 04/03/11 to 04/01/12

	<u>Current</u>	<u>Projected</u>	<u>Estimated</u>	
	<u>Hourly Rate</u>	<u>Hours</u>	<u>Cost</u>	
<u>DNR Staff Costs</u>				
DNR Ecological Resources				
Previous Amendments		NA	NA	\$ 633,628
Additional Needed in Amendment 10	\$ 55	1,801	\$	99,050
Additional Needed in Amendment 11	\$ 55	4,368	\$	240,240
TOTAL ECO			\$	972,918
DNR Division of Waters				
Previous Amendments		NA	NA	\$ 267,373
Additional Needed in Amendment 10	\$ 73	720	\$	52,560
Additional Needed in Amendment 11	\$ 72	828	\$	59,616
TOTAL WAT			\$	379,549
DNR Division of Lands & Minerals				
Previous Amendments		NA	NA	\$ 1,109,710
Additional Needed in Amendment 10	\$ 80	3196	\$	255,680
Additional Needed in Amendment 11	\$ 74	2250	\$	166,500
TOTAL LAM			\$	1,531,890
DNR Division of Fish and Wildlife				
Previous Amendments		NA	NA	\$ 4,200
TOTAL FAW			\$	4,200
DNR Other (various staff, different pay rates may apply)				
Previous Amendments		NA	NA	\$ 8,000
TOTAL OTHER			\$	8,000
TOTAL DNR			\$	2,896,557
<u>MPCA Staff Costs</u>				
Previous Amendments		NA	NA	\$ 362,098
Additional Needed in Amendment 10	\$75.00	868	\$	65,075
Additional Needed in Amendment 11	\$75.00	2,798	\$	209,850
TOTAL MPCA			\$	637,023
<u>MDH Staff Costs</u>				
Previous Amendments		NA	NA	\$ 8,750
TOTAL MDH			\$	8,750

STATE Direct Costs

	<u>Revised</u>	<u>Revised</u>
	<u>June 7, 2010</u>	<u>March 4, 2011</u>
Printing/Copying/Mailing		
Draft EIS	\$ 40,000	\$ 40,000
Draft EIS 2	\$ 40,000	\$ 40,000
Attorney General	\$ 500	\$ 500
Public Meeting Materials	\$ 250	\$ 250
Travel & Lodging (in state)	\$ 250	\$ 250
Travel & Lodging (out of state)	\$ 24,200	\$ 24,200
Communications	\$ 1,000	\$ 1,000
Hearings and Notices	\$ 8,500	\$ 8,500
Miscellaneous	\$ 2,000	\$ 2,000
Meals	\$ 250	\$ 250
TOTAL DIRECT COSTS	\$ 116,950	\$ 116,950
Change in Direct Costs	\$ 46,950	\$ -

EIS Consultant Costs

Previous EIS Contract	\$ 5,887,016	NA
New EIS Contract		\$ 2,100,000
TOTAL EIS CONSULTANT COSTS		\$ 7,987,709

Subtotal Amendment 11		\$ 2,776,206
SUBTOTAL	\$ 8,897,343	\$ 11,646,989
<u>DNR Shared Services</u>		\$ 42,398
TOTAL CONTRACT	\$ 8,897,343	\$ 11,715,947
Total Amendment Amount		\$ 2,818,604

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil

Case No. 62-CV-11-5203

In Re: Temporary Funding of
Core Functions of the
Executive Branch of the
State of Minnesota

**AFFIDAVIT OF SERVICE
BY HAND DELIVERY**

The undersigned, William P. Hefner, being duly sworn, states that on the 11th day of July, 2011, he served the following:

1. [Proposed] Findings of Fact, Conclusions of Law and Order Regarding Petition of PolyMet Mining, Inc.
2. Affidavit of Bradley C. Moore in Support of Petition of PolyMet Mining, Inc.; and
3. Affidavit of Service by Delivery

by hand-delivery via courier to the following last known addresses below:

James Schowalter, Commissioner
Minnesota Management & Budget
400 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Paul Aasen, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

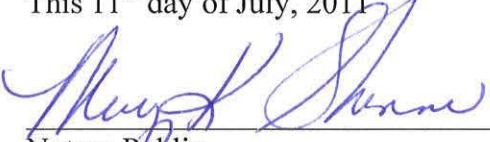
Tom Landwehr, Commissioner
Minnesota Department of Natural
Resources
520 Lafayette Road North
St. Paul, MN 55155-4040

Office of Minnesota Attorney General
Lori Swanson
1400 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101

Office of the Governor
130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155


William P. Hefner (#258349)

Sworn and subscribed before me
This 11th day of July, 2011


Notary Public

