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November 27, 2019

*Via E-filing and hand delivered*The Honorable John H. Guthmann
Ramsey County District Court
1470 Ramsey County Courthouse
15 Kellogg Boulevard West
St. Paul, MN 55102**Re: Ramsey County Court File No. 62-cv-19-4626**

Dear Judge Guthmann:

Relators write in response to the letter filed by Minnesota Pollution Control Agency (“MPCA”) counsel on November 22, 2019 (the “Letter”) and to ask this Court to require MPCA to produce documents pursuant to this Court’s ruling at the November 13, 2019 hearing. We regret any inconvenience that the timing of our communications may cause the Court.

I. Response to MPCA’s Letter

As directed by the Court at the November 13, 2019 hearing, Relators reviewed previously withheld documents. Following this review, Relators sent MPCA an updated privilege log and produced two redacted emails on November 18, 2019. Less than twenty-four hours before filing the Letter with the Court, Relators learned of MPCA’s concerns with the production.

Relators’ will produce twelve emails previously withheld solely on the basis of a “confidential source” in redacted form, even though most of these emails are purely transmittal emails. With this correspondence, Relators provide their current privilege log as **Ex. A**, with indications as to which additional documents will be produced. Due to the Thanksgiving holiday and this morning’s heavy snow, Relators will not be able to produce these documents until next week.

With regard to MPCA’s vague assertion that Relators failed to produce an attachment referenced in a produced email, Relators have provided all documents that fit within the narrow scope of discovery the Court required. The document Relators believe MPCA references does not relate to any procedural irregularities and, therefore, Relators do not need to either produce the document or put the document on the privilege log. (Pre-Hr’g Conference Tr. 79:18-21 (Nov. 13, 2019) (“if it was never within the scope of the discovery they were obligated to answer, it’s obviously never within the scope of what they were expected to put on a privilege log”)).

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Finally, as to Relators' updates to the privilege log, Relators reexamined the documents contained in the privilege log and, in doing so, discovered certain documents contained attorney-work product. Relators properly supplemented the privilege log on that basis.

To the extent that Relators' production of these documents does not address MPCA's request, Relators ask the Court to deny MPCA's request.

II. Request for Production

Relators make a separate request that the Court require MPCA to produce relevant documents. Despite the parties' phone conference on November 11, 2019 and the Court's direction, MPCA has yet to provide Relators dozens of documents for which privilege was not properly established in MPCA's initial privilege log. After informing Relators it would produce documents that had been withheld due to a claim of "deliberative privilege," MPCA instead reclassified many of these documents on its privilege log to claim an attorney-client privilege and attorney work product. MPCA has also continued to withhold documents that lack indicia of attorney-client privilege or attorney work product, that are germane to alleged procedural irregularities, and that may contain segregable, if any, content related to privileged matters.

Rather than address all 1,254 documents to which the MPCA now asserts some form of attorney-client privilege or attorney work product, Relators are seeking production of documents dated during the permitting process. As indicated on **Ex. B**, Relators seek documents on MPCA's November 26, 2019 privilege log for which MPCA claims a disputed attorney-client privilege, many of which are permitting documents pertinent to Relators' alleged procedural irregularities likely to have segregable, if any, privileged content. In **Ex. B**, Relators have identified approximately 60 of those documents that haven't been produced, even in a redacted version.

To illustrate Relators' concerns, MPCA's privilege log number 39 lists neither author nor recipient but claims to be attorney-client privileged. MPCA privilege log numbers 949-955 are asserted to be prepared at the request of counsel and 956-973 are Excel documental for which attorney-client and attorney work product privileges are asserted. If these permitting documents, all prepared in the summer of 2018, serve to compare EPA's criticisms of the draft PolyMet permit to those made by members of the public, they would be highly material to Relators' claims that MPCA engaged in a cover up after EPA's written comments were withheld. Relators would have a substantial need for this information, which could not be obtained from other sources.

Relators respectfully request that the Court order MPCA to provide Relators with the permitting documents identified in the attached updated MPCA privilege log spreadsheet (**Ex. B**). Once Relators have reviewed these documents and any potential redactions, we will be in a better position to determine whether further disclosure or in camera review is needed.

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Finally, although MPCA has produced Michael Schmidt's 29-page April 17, 2018 memorandum, MPCA redacted more than 26 of its pages in their entirety, as shown in **Ex. C**. Mr. Schmidt's memorandum is likely to provide contemporaneous factual information as to what transpired in the April 5, 2018 meeting during which EPA read its comments on the draft PolyMet NPDES permit aloud to MPCA staff and in other MPCA discussions at this critical time. Relators respectfully request that the Court order MPCA to produce Mr. Schmidt's April 17, 2018 memorandum for the Court's in camera review to ensure that redactions do not exceed the scope of privilege.

[signature blocks on following page]

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Respectfully submitted,

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Enclosures

cc: Counsel of Record (via Odyssey)

EXHIBIT A

RELATORS' PRIVILEGE LOG

Document Information:							
Custodian	Doc Type	Date	From	To	Description	Privilege Basis*	Status
FDL	Email	3/9/2018	Nancy Schuldt, FDL Water Projects Coordinator	Anne Noto (outside counsel)	Email regarding confidential source seeking advice on how to proceed	C/S; AWP; A/C	
FDL	Email	3/22/2018	Barbara Wester, EPA	Nancy Schuldt	RELATORS_0064204. No longer withheld as document was produced by EPA through a FOIA request.		
WL	Email	2/2/2019	Confidential source	Paula Maccabee	Confidential source identifies potential sources of information.	C/S	Will be produced with redactions
WL	Email string	2/3/2019	Confidential source and Paula Maccabee	Paula Maccabee and Confidential source	Confidential source describes potential sources of information, attorney states mental impressions regarding legal process.	C/S; AWP	
WL	Email	2/5/2019	Confidential source	Paula Maccabee	Describes process within EPA.	C/S	Will be produced with redactions
MCEA	Email	2/5/2019 to 2/11/2019	See description		RELATORS_0064207. Redacted email string between MCEA Staff Attorney Evan Mulholland and a confidential source.	C/S	
MCEA	Email	2/19/2019	Confidential source	Evan Mulholland	Email from a confidential source to Mulholland transmitting RELATORS_0064123.	C/S	Will be produced with redactions
WL	Email	4/3/2019	Confidential source	Paula Maccabee	Confidential source forwards confidential communication to OIG	C/S	Will be produced with redactions
WL	Email	4/4/2019 to 4/5/2019	Confidential source and Paula Maccabee	Paula Maccabee and Confidential source	Confidential source describes EPA process and other potential confidential sources, attorney describes litigation.	C/S; AWP	
MCEA	Email	4/8/2019	Confidential source	Evan Mulholland	Email from a confidential source to Mulholland transmitting RELATORS_0062761 and RELATORS_0062827.	C/S	Will be produced with redactions
MCEA	Email	4/13/2019	Confidential source	Evan Mulholland	Email from a confidential source to Mulholland transmitting RELATORS_0064143.	C/S	Will be produced with redactions
WL	Duplicate	6/14/2018	Duplicate	Duplicate	Duplicate	Duplicate	Will be produced with redactions
MCEA	Email	6/5/2019	Confidential source	Relators' counsel	Email from a confidential source to Relators' counsel	C/S; AWP	
WL	Email	6/10/2019	Confidential source	Paula Maccabee	Confidential source describes potential sources of information	C/S	Will be produced with redactions
WL	Email	6/14/2019	Confidential source and Paula Maccabee	Paula Maccabee and Confidential source	Confidential source describe potential sources of information and attorney provides mental impressions and describes investigation. [Duplicate]	C/S; AWP	
MCEA	Email	6/17/2019	Confidential source	Evan Mulholland	Email from a confidential source to Mulholland transmitting RELATORS_0064134.	C/S	Will be produced with redactions
Relators	Memo	6/18/2019	Confidential source		RELATORS_0064143	C/S	
WL	Email	6/19/2019	Confidential source	Paula Maccabee	Confidential source describes potential sources of information	C/S	Will be produced with redactions
MCEA	Email	7/16/2019	Confidential source	Aaron Klemz	Email from a confidential source to MCEA transmitting RELATORS_0060982 and setting up phone call.	C/S	Will be produced with redactions
FDL	Email	7/25/2019	Nancy Schuldt	Vanessa Ray-Hodge (outside counsel); Matthew Murdock (outside counsel); Seth Bichler (in-house attorney); Sean Copeland (in-house attorney)	Email regarding confidential source provided at the direction of outside counsel.	C/S; AWP; A/C	
WL	Email string	10/9/2019-6/25/19	Confidential source and Paula Macabee	Paula Maccabee and Confidential source	Confidential source describes potential sources of information and attorney provides update regarding transfer motion decision.	C/S	Will be produced with redactions

* C/S = Confidential Source

* AWP = Attorney Work Product

* A/C = Attorney Client

* S/I = Sovereign Immunity

EXHIBIT B

Doc No.	Date	Author	Recipient(s)	File Type	Description	Privilege Claim	Relators' Unresolved Issue
39	3/17/2017			PDF	Attorney client privileged communication to receive legal advice	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19) Request production for all "privilege disputed" documents.
153	9/14/2018	Jeff Udd (MPCA)	Richard Clark (MPCA) Stephanie Handeland (MPCA) Brian Schweiss(MPCA) Scott Kyser (MPCA)	Email	Communication between MPCA personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
301	4/17/2018	Michael R Schmidt (MPCA)		PDF	Attorney Work Product regarding permit development	Attorney Client Communication Attorney Work Product	Request in camera review due to substantial need & redactions.
308	6/4/2018	Stephanie Handeland (MPCA)	Michael R. Schmidt Jeff Udd Richard Clark	PDF	Communication between MPCA personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-21) "new" = newly listed by MPCA.
597	5/19/2016			Word Doc	Michael Schmidt Work Product	Attorney Client Communication	Privilege disputed (11-11-19)
949	7/12/2018			Word Doc	Work Product prepared at request of counsel	Attorney Work Product	Privilege disputed (11-11-19)
950	7/12/2018			Word Doc	Work Product prepared at request of counsel	Attorney Work Product	Privilege disputed (11-11-19)
951	7/12/2018			Word Doc	Work Product prepared at request of counsel	Attorney Work Product	Privilege disputed (11-11-19)
952	6/4/2018			Word Doc	Work Product prepared at request of counsel	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
953	7/16/2018			Word Doc	Michael Schmidt attorney work product	Attorney Client Communication	Privilege disputed (11-11-19)
954	6/4/2018			Word Doc	Work Product prepared at request of counsel	Attorney Client Communication	Privilege disputed (11-11-19)
955	6/4/2018			Word Doc	Work Product prepared at request of counsel	Attorney Client Communication	Privilege disputed (11-11-19)
956	6/4/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
957	6/8/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
958	7/12/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
959	6/1/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
960	6/28/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
961	6/4/2018			Excel Doc	Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product	Privilege disputed (11-11-19)
962	6/28/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
963	7/2/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
964	6/18/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
965	7/12/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
966	7/12/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
967	7/12/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
968	6/1/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
969	6/4/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
970	6/8/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
971	6/28/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
972	7/17/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
973	6/1/2018			Excel Doc	Michael Schmidt attorney-client	Attorney Client	Privilege disputed (11-11-19)
1114	12/11/2018	Jeff Udd (MPCA)	Shannon Lotthammer	Email	Forwarding attorney communication and	Attorney Client	Privilege disputed (new 11-26)
1115	12/11/2018			Email	Attorney Attorney Work Product regarding	Attorney Client	Privilege disputed (new 11-26)
1117	6/6/2018	Jeff Udd (MPCA)	Shannon Lotthammer	Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1118	6/6/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1131	10/17/2018	CoriAhna Rude-Young (MPCA)	Dave Verhasselt (MPCA) Shannon Lotthammer (MPCA)	Email	Forwarding attorney communication and Attorney Work Product	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)

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1153	2/15/2018	Michell Ooley (MPCA)	John Stine (MPCA) Shannon Lotthammer (MPCA) Jeff J Smith(MPCA) Jeff Udd (MPCA) Mark Schmitt (MPCA) Adonis Neblett (MPCA) Stephanie Handeland (MPCA) Michelle Beeman (MPCA) Kirk Koudelka (MPCA) Jean Coleman (MPCA) Brandon E Smith (MPCA) Erik Smith (MPCA) Richard Clark (MPCA) Brian Schweiss (MPCA) Scott Knowles (MPCA) Theresa Haugen (MPCA) Scott Kyser (MPCA) Aida Mendez (MPCA) Steven Weiss (MPCA) Catherin Neuschler (MPCA) Byron Adams (MPCA) Andrew Streitz (MPCA) Julie Henderson(MPCA) Steve Giddings (MPCA) Michael J. Anderson (MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1154	2/15/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1155	2/15/2018	Michell Ooley (MPCA)	John Stine (MPCA) Shannon Lotthammer (MPCA) David J Benke (MPCA) Jeff Stollenwerk (MPCA) Mark Schmitt (MPCA) Jen Oknich (MPCA) Adonis Neblett (MPCA) Michelle Beeman (MPCA) Kirk Koudelka (MPCA) Jean Coleman (MPCA) William Wilde (MPCA) Jeff Udd (MPCA) Richard Clark (MPCA) Jim Sullivan (MPCA) Hassan Bouchareb (MPCA) Zach Wenz (DNR) Bruce A Monson (MPCA) David L Brown (MPCA) Michael Olson (DNR) Ed Swain (MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1156	2/15/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1161	12/31/2018	Adonis Neblett (MPCA)	Shannon Lotthammer (MPCA) Jeff Udd (MPCA) Michael R. Schmidt (MPCA) Jeff J Smith(MPCA)	Email Attachments - PDF	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1162	12/11/2018	Jeff Udd (MPCA)	Shannon Lotthammer	Email	Forwarding attorney communication and	Attorney Client	Privilege disputed (new 11-26)
1163	12/11/2018			Email	Forwarding attorney communication and	Attorney Client	Privilege disputed (new 11-26)
1164	12/3/2018	Michael R. Schmidt (MPCA)	Adonis Neblett (MPCA) Shannon Lotthammer (MPCA) Jeff Udd (MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1165	12/3/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1166	5/31/2018	Michael R. Schmidt	Shannon Lotthammer	Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1167	12/31/2018	Adonis Neblett (MPCA)	Shannon Lotthammer (MPCA) Jeff J Smith(MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication	Privilege disputed (new 11-26)

EXHIBIT B

1168	11/9/2018	Melissa Kuskie (MPCA)	Michelle Beeman (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA)	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1169	8/16/2018	Jeff J Smith(MPCA)	Adonis Neblett (MPCA) Melissa Kuskie (MPCA) Michelle Beeman (MPCA) Jeff	Email Attachment - PDF	Communication from agency personnel to attorney	Attorney Client Communication	Privilege disputed (new 11-26)
1170	8/16/2018	Michelle Beeman (MPCA)	Jeff J Smith(MPCA) Jeff Stollenwerk (MPCA) Melissa Kuskie (MPCA) Bill Sierks (MPCA)	Email Attachment - Work Doc	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1171	8/16/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1172	8/16/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1243	12/31/2018	Adonis Neblett (MPCA)	Shannon Lotthammer (MPCA) Jeff J Smith(MPCA) Jeff Udd (MPCA) Michael R. Schmidt (MPCA) Leslie Fredrickson (MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication	Privilege disputed (new 11-26)
1244	12/31/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1245	12/31/2018	Adonis Neblett (MPCA)	Shannon Lotthammer (MPCA) Jeff Udd	Email Attachment	Attorney communication with agency personnel	Attorney Client Communication	Privilege disputed (new 11-26)
1246	11/28/2018	John Stine (MPCA)	Adonis Neblett (MPCA) Greta Gauthier (MPCA) Dave Verhasselt (MPCA) Shannon Lotthammer (MPCA) Bill Sierks (MPCA)]	Email	Communication from agency personnel to attorney	Attorney Client Communication	Privilege disputed (new 11-26)
1247	11/9/2018	Melissa Kuskie (MPCA)	Michelle Beeman (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA)	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1248	10/17/2018	CoriAhna Rude-Young	Dave Verhasselt (MPCA)	Email	Forwarding attorney communication and	Attorney Client	Privilege disputed (new 11-26)
1249	8/16/2018	Jeff J Smith(MPCA)	Adonis Neblett (MPCA) Melissa Kuskie (MPCA) Michelle Beeman (MPCA) Jeff Stollenwerk (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) John Stine (MPCA)	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1250	5/31/2018	Michael R. Schmidt	Shannon Lotthammer	Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1251	2/15/2018	Michell Ooley (MPCA)	John Stine (MPCA) Shannon Lotthammer (MPCA) Jeff J Smith(MPCA) Jeff Udd (MPCA) Mark Schmitt (MPCA) Adonis Neblett (MPCA) Stephanie Handeland (MPCA) Michelle Beeman (MPCA) Kirk Koudelka (MPCA) Jean Coleman (MPCA) Brandon E Smith (MPCA) Erik Smith	Email	Communication between MPCA personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1252	2/15/2018			Email	Attorney communication with agency	Attorney Client	Privilege disputed (new 11-26)
1253	2/15/2018	Michell Ooley (MPCA)	John Stine (MPCA) Shannon Lotthammer (MPCA) David J Benke (MPCA) Jeff Stollenwerk (MPCA) Mark Schmitt (MPCA) Jen Oknich (MPCA) Adonis Neblett (MPCA) Michelle Beeman (MPCA) Kirk Koudelka (MPCA) Jean Coleman (MPCA)		Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)
1254	2/15/2018	Adonis Neblett (MPCA)	Hearing Team and Commissioner Review Team Members	Email Attachment - Word Doc	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product	Privilege disputed (new 11-26)

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2018-04-05

Udd, Rchard, Steph, Ackerman, Krista, Pierard, Candice, Barbara

KP: We were prepared to send comments, they were crafted to be able to ID objectionable items. Have some objection issues, some recommendations.

#	Issue	Solution	Cites
1	No WQBELs except pH, or conditions to impose WQS. Does include TBELs being higher than WQS.	WQBELs imposed for Hg, Cu, Cd, As, Zn	402(b), 122.4(d), 122.44, 123.44(c)(1), 123.44(c)(8) and (9)
2	Lacks clear narrative effluent limits – no unqualified prohibition on discharge causing WQS excursion.	Establish WQBELs, remove qualifying language.	6.16.4
3	Record doesn't show consideration of all pollutants in the application. Without WQBELs, there is no assurance of meeting WQS.	Include the WQBELs at SD001.	
4	RPA relies on data in the application being maxes, without accounting for uncertainty/variability. Alternative statistical procedures for PEQ (GLI). Addendum to the MOA for GLI – MN committed to meet 132 Appx F, Procedure 5, ¶(B)(2)	Follow GLI procedures for PEQ.	40 C.F.R. § 132 Appx F, procedure 5, ¶(B)(2)
5	Decision on WQBELs relies on operating limits at WS074. Limits are set at low values, but there is no basis to conclude all WQS for parameters in the application would be met. Especially for Hg – pilot study didn't address Hg.		FS pp. 34-37
6	No SO4/Cu addition after WS074, but no prohibition later – mineral addition – for aluminum. Available lime contains aluminum, could exceed WQS. WET should include WET limits after mineral addition.	Include WQBEL for Al and WET after mineral addition.	
7	Insufficient info on downstream waters. Downstream exceed for Hg now. Effectiveness of treatment is unknown.	Overall, MPCA should include WQBELs for parameters in the application with WQS.	402(b)(5)

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8	ELGs: Doesn't include violation restrictions under 440. Carryover acts as a credit.	Set numeric flow limit consistent with §104. Include effluent limits in 440.12, 440. Subp. A for iron ore for legacy pollutants.	40 CFR 440 subparts G, J, K. 440.104(b)(2)(i). 440.12 (iron ore).
9	As written, permit precludes enforcement – permit shield		402(k)
10	Operating limits may not be enforceable by EPA, citizens, MPCA. Internal operating limit based on voluntary commitment.	Ensure all NPDES conditions are enforceable under the CWA.	
11	Transfer CE permit and CD to PM affiliate. Arrangement could be the same permittee holding multiple permits. Unclear who is responsible, confuses enforcement requirements. Speculation of the attenuation. FS acknowledges seep discharge. Draft permit should assign responsibility. Permit could list known seeps, maps, relation to containment. Should have monitoring and limits. Could include interim limits and authorization until contained.	Move the CE permit into Northmet permit.	FS at 17.
12	General permit for CSW: Individual and supporting documents don't say what is excluded. It would include 900 acres of wetlands – there is significant Hg there. MPCA addresses Hg in peat mining, but not here. Hg is unregulated. ID that this is covered under CSW, evaluate RP for Hg. If RP exists, GP coverage is not appropriate.	Conduct RP analysis for Hg in stormwater; possibly cover in individual permit.	
13	6.10.17: No discharge from mine site – unclear how this is assured. Must monitor to ensure compliance.	Fix at 6.10.17, 6.10.26, 6.10.78, 3.11.2, 6.11.9, 6.12.2, 6.15.11	122.44(i)
14	Decision-making procedures: Plans/reports are de facto permit mods. Likely to be major. Permit allows mod without public process; mods may be unenforceable.	Require immediate CAs, using enforcement action, then modify permit.	6.10.38, other locations in permit.
15	BOD, pH, TSS, FC, etc. – limits at sewage stabilization pond – WS009, SD001. No RP discussion about this.	Reporting requirements – weekly observations	
16	WWTS discharge distribution – unclear on flows.		6.10.1-6.10.9
17	Controlled discharge of stabilization ponds – how is		Permit at 11

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	this enforceable?		
18	6.10.12 doesn't allow cells to be combined until system is "fully operating" – define that term.		6.10.12
19	6.10.27 – paired wells. Where established, reference numbers. If not established, put in monitoring table.		6.10.27
20	6.10.26: Discharge to surface from FTB is prohibited. Unclear how implemented. Recommend clarifying.		
21	6.10.49 – sample at 003, 006, 009, 027: after initial operations. Should sample upon issuance for baseline data.		
22	6.11.11: PCBs. Work with permittee; if no PCBs, have them certify that. If present, monitor for them to verify prohibition.		
23	Cite authority (federal and state) for which discharge is allowed		
24	References to permit application – point to where, not just a volume.		
25	6.10.21: pre-approve mitigation – link to where that is located.		
26	Maps are unclear. Reference where higher-res is viewable.		