

Exhibit A

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

In the Matter of the Denial of Contested Case
Hearing Requests and Issuance of National
Pollutant Discharge Elimination System/State
Disposal System Permit No. MN0071013 for
the Proposed NorthMet Project, St. Louis
County, Hoyt Lakes and Babbitt, Minnesota

Court File No. 62-CV-19-4626
Judge John H. Guthmann

**RELATORS' REQUESTS FOR
ADMISSION TO MINNESOTA
POLLUTION CONTROL AGENCY**

TO: Respondent Minnesota Pollution Control Agency and its Attorneys of Record, John Martin, Holland & Hart, LLP, P.O. Box 68, Jackson, WY 83001; Sarah Koniewicz, Holland & Hart, LLP, 1800 Broadway, Suite 300, Boulder, CO 80302; and Richard Schwartz, Crowell & Moring LLP, 1001 Pennsylvania Ave. NW, Washington, DC 20004.

Relators Center for Biological Diversity, Fond du Lac Band of Lake Superior Chippewa, Friends of the Boundary Waters Wilderness, Minnesota Center for Environmental Advocacy, and WaterLegacy (collectively, "Relators"), by the undersigned counsel and pursuant to Minnesota Rule 1400.6800, hereby propound the following Requests for Admission to Minnesota Pollution Control Agency ("MPCA").

PRELIMINARY STATEMENT

Relators propound these Requests for Admission as part of their effort to come to an agreement with MPCA regarding "exhibits or other evidence" before the January 21, 2020 hearing. Am. Order Setting Evidentiary Hearing ¶ 4 (Nov. 19, 2019). These Requests for Admission are not submitted pursuant to Rule 36 of the Minnesota Rules of Civil Procedure, but rather under the Minnesota Administrative Procedures Act. Minnesota Rule 1400.6800 permits a party to serve "written request for the admission of relevant facts or opinions, or of the application of law to

relevant facts or opinions, including the genuineness of any document” at least 15 days prior to a hearing.

INSTRUCTIONS

1. Each Request for Admission shall be answered separately. If you do not admit the matter, specifically state why you deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter.

2. If you object to a Request for Admission, please state the grounds for your objection.

3. Please do not give lack of information or knowledge as a reason for failure to admit or deny unless you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny.

4. Please respond in writing and no later than ten days from service of these Requests, by serving your response on all counsel of record. Minn. R. 1400.6800.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION No. 1:

Admit the State of Minnesota has enacted water quality standards approved by the United States Environmental Protection Agency (“EPA”).

RESPONSE:

REQUEST FOR ADMISSION No. 2:

Admit the State of Minnesota is bound to enforce the water quality standards approved by the EPA under the Clean Water Act.

RESPONSE:

REQUEST FOR ADMISSION No. 3:

Admit that the State of Minnesota, through MPCA, has been delegated authority under the Clean Water Act to issue National Pollutant Discharge Elimination System/State Disposal System (“NPDES”) permits. 40 C.F.R. Part 122.

RESPONSE:**REQUEST FOR ADMISSION No. 4:**

Admit that MPCA may not issue a NPDES permit when the permit’s conditions do not provide for compliance with the Clean Water Act and its federal regulations, as well as with State water quality standards approved under the Clean Water Act.

RESPONSE:**REQUEST FOR ADMISSION No. 5:**

Admit that EPA has oversight over MPCA’s NPDES permitting process and final decisions.

RESPONSE:**REQUEST FOR ADMISSION No. 6:**

Admit that EPA may make comments on a pre-public notice draft or draft NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 7:**

Admit that MPCA is obligated to issue publicly available written responses to any EPA comments made on a draft NPDES permit within the public comment period.

RESPONSE:

REQUEST FOR ADMISSION No. 8:

Admit that any written comments MPCA receives from EPA regarding a pre-public notice draft NPDES permit are subject to public disclosure.

RESPONSE:**REQUEST FOR ADMISSION No. 9:**

Admit that any written comments MPCA receives from EPA regarding a draft NPDES permit are subject to public disclosure.

RESPONSE:**REQUEST FOR ADMISSION No. 10:**

Admit that it is not MPCA's normal practice to request that EPA withhold EPA comments prepared regarding a draft NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 11:**

Admit that Water Quality-based Effluent Limitation (WQBELs) are required when the MPCA determines that technology-based effluent limitations are insufficient to achieve water quality standards established under the Clean Water Act.

RESPONSE:**REQUEST FOR ADMISSION No. 12:**

Admit that Great Lakes Initiative standards under 40 C.F.R. Part 132 apply when an NPDES permit is issued for a facility in the Lake Superior Basin of the Great Lakes.

RESPONSE:

REQUEST FOR ADMISSION No. 13:

Admit that the mine site, processing site, tailings basin and hydrometallurgical residue facility proposed for Poly Met Mining, Inc.'s ("PolyMet") NorthMet Mine Project (the "Project" or the "PolyMet Project") are located in the Lake Superior Basin of the Great Lakes.

RESPONSE:**REQUEST FOR ADMISSION No. 14:**

Admit that, at least as of February 18, 2010, MPCA was aware that the PolyMet Project would eventually require NPDES permitting.

RESPONSE:**REQUEST FOR ADMISSION No. 15:**

Admit that, in a February 18, 2010 letter from Bharat Mathur, Acting Regional Administrator for EPA Region 5, EPA advised MPCA that the EPA had concluded that the PolyMet Project risked "adverse environmental impacts" including "unacceptable and long-term water quality impacts, which include exceeding water quality standards, releasing unmitigated wastewater discharges to water bodies (during operation and in the post-closure period), and increasing mercury loadings into the Lake Superior watershed." (Relators Ex. 329.)

RESPONSE:**REQUEST FOR ADMISSION No. 16:**

Admit that Relators Exhibit 329 is an authentic and genuine copy of a letter and its attachments that was copied to MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 17:**

Admit that, as of April 6, 2012, MPCA was working with "EPA's NPDES staff to ensure that state and federal regulators concur on permitting strategies now, versus finding that there are differences later on." (Relators Ex. 330.)

RESPONSE:**REQUEST FOR ADMISSION No. 18:**

Admit that, as of April 6, 2012, “Ann Foss at MPCA” was working to “organize one or more meetings on Clean Water Act NPDES permit issues between [EPA], MPCA, and [PolyMet].” (Relators Ex. 330.)

RESPONSE:**REQUEST FOR ADMISSION No. 19:**

Admit that Relators Exhibit 330 is an authentic and genuine copy of an email thread that was copied to MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 20:**

Admit that, in an August 7, 2013 letter from Alan Walts, EPA Director of the Office of Enforcement and Compliance Assurance, EPA advised MPCA that “appropriate WQBELs must be derived based on water quality standards and implementing in the permit . . . according to 40 CFR 122.44(d).” (Relators Ex. 331.)

RESPONSE:**REQUEST FOR ADMISSION No. 21:**

Admit that Relators Exhibit 331 is an authentic and genuine copy of a letter and its attachments that was copied to MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 22:**

Admit that, in a March 13, 2014 letter from Alan Walts, EPA Director of the Office of Enforcement and Compliance Assurance, EPA advised MPCA that a NPDES permit would be “required before the pollutants from the mine site reach waters of the [United States] (including jurisdictional wetlands and tributaries).” (Relators Ex. 332.)

RESPONSE:**REQUEST FOR ADMISSION No. 23:**

Admit that Relators Exhibit 332 is an authentic and genuine copy of a letter and its attachments that was copied to MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 24:**

Admit that Relators Exhibit 370 is an authentic and genuine copy of an April 2015 email thread between Ann Foss, MPCA Mining Sector Director at the time, and Kevin Pierard, Chief of EPA's Region 5 Programs Branch.

RESPONSE:**REQUEST FOR ADMISSION No. 25:**

Admit that Relators Exhibit 685 is an authentic and genuine copy of an April 2015 email thread between Foss and Pierard, including an attachment to that thread provided by Pierard.

RESPONSE:**REQUEST FOR ADMISSION No. 26:**

Admit that, on September 24, 2015, MPCA, along with Minnesota Department of Natural Resources, requested that the Minnesota Attorney General permit MPCA to retain "outside counsel to represent the agencies in regard to PolyMet's NorthMet Project," as the agencies anticipated litigation in several areas, including "the MPCA water quality permit decision under the Federal Clean Water Act . . ." (Relators Ex. 382.)

RESPONSE:**REQUEST FOR ADMISSION No. 27:**

Admit that Relators Exhibit 382 is an authentic and genuine copy of a September 24, 2015 letter from MPCA and the Minnesota Department of Natural Resources to the Minnesota Attorney General.

RESPONSE:**REQUEST FOR ADMISSION No. 28:**

Admit that PolyMet submitted an application for a NPDES permit for the PolyMet Project on July 11, 2016.

RESPONSE:**REQUEST FOR ADMISSION No. 29:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on November 1, 2017.

RESPONSE:**REQUEST FOR ADMISSION No. 30:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on November 9, 2017.

RESPONSE:**REQUEST FOR ADMISSION No. 31:**

Admit that Relators Exhibit 56 is an authentic and genuine copy of handwritten notes taken during calls between MPCA and EPA for the dates indicated in the notes.

RESPONSE:**REQUEST FOR ADMISSION No. 32:**

Admit that MPCA provided EPA and the tribes with a copy of the draft NPDES permit on January 17, 2018, two weeks before the draft permit was provided for public notice.

RESPONSE:

REQUEST FOR ADMISSION No. 33:

Admit that MPCA made the draft NPDES permit for the PolyMet project available for public comment January 30, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 34:**

Admit that the public comment period for the draft NPDES permit ended on March 16, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 35:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on January 31, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 36:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on February 13, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 37:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on March 5, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 38:**

Admit that Relators Exhibit 324 is an authentic and genuine copy of handwritten notes taken during calls between MPCA and EPA for the dates indicated in the notes.

RESPONSE:**REQUEST FOR ADMISSION No. 39:**

Admit that, on March 13, 2018, MPCA asked EPA to “not send a written comment letter during the public comment period” (Relators Ex. 333.)

RESPONSE:**REQUEST FOR ADMISSION No. 40:**

Admit that Relators Exhibit 333 is an authentic and genuine copy of a March 13, 2018 email from Shannon Lotthammer of MPCA to Kurt Thiede of EPA, which includes an email thread between Cathy Stepp, Christopher Korleski, and Thiede of EPA and John Linc Stine of MPCA, as well as email attachments.

RESPONSE:**REQUEST FOR ADMISSION No. 41:**

Admit that, on March 26, 2018, WaterLegacy submitted a Minnesota Government Data Practices Act (“DPA”) request for “[c]omments, letters, emails, memos, meeting notes, phone conversations notes or any other records a) from the U.S. EPA; or b) pertaining to written or oral communications or phone or in-person meetings with the U.S. EPA regarding any proposed or draft [NPDES] permit for the PolyMet NorthMet Project” (Relators Ex. 334.)

RESPONSE:**REQUEST FOR ADMISSION No. 42:**

Admit that, on April 5, 2018, WaterLegacy submitted a DPA request for “[c]omments received by MPCA pertaining to the draft [NPDES] permit . . . for the PolyMet NorthMet Project . . . excluding any comments submitted by or on behalf of WaterLegacy.” (Relators Ex. 336.)

RESPONSE:

REQUEST FOR ADMISSION No. 43:

Admit that Relators Exhibits 334 and 336 are authentic and genuine copies of WaterLegacy's DPA requests submitted on March 26, 2018 and April 5, 2018, respectively.

RESPONSE:**REQUEST FOR ADMISSION No. 44:**

Admit that EPA and MPCA participated in a conference call regarding permitting the NorthMet Project on April 5, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 45:**

Admit that MPCA has not produced in this litigation any notes taken during or memorializing the April 5, 2018 conference call between EPA and MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 46:**

Admit that MPCA did not produce in response to any DPA requests any notes taken during or memorializing the April 5, 2018 conference call between EPA and MPCA.

RESPONSE:**REQUEST FOR ADMISSION No. 47:**

Admit that Michael Schmidt's handwritten notes from April 5, 2018 were discarded by Mr. Schmidt.

RESPONSE:

REQUEST FOR ADMISSION No. 48:

Admit that Stephanie Handeland's handwritten notes from April 5, 2018 were discarded by Ms. Handeland.

RESPONSE:**REQUEST FOR ADMISSION No. 49:**

Admit that, at the conference call regarding permitting the PolyMet Project on April 5, 2018, EPA read from a written comment on the draft PolyMet permit.

RESPONSE:**REQUEST FOR ADMISSION No. 50:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on April 30, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 51:**

Admit that Relators Exhibit 338 is an authentic and genuine copy of handwritten notes taken during the call between MPCA and EPA on April 30, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 52:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on June 11, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 53:**

Admit that Relators Exhibit 339 is an authentic and genuine copy of handwritten notes taken during the call between MPCA and EPA on June 11, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 54:**

Admit that, on September 20, 2018, WaterLegacy submitted a DPA request for “all records, including but not limited to comments, letters, emails, memos, meeting notes, phone conversations notes, draft permits, draft certifications, presentations, monitoring data, or technical materials since January 2018 pertaining to . . . [any] proposed or draft [NPDES] permit for the PolyMet NorthMet Project” (Relators Ex. 340.)

RESPONSE:**REQUEST FOR ADMISSION No. 55:**

Admit that Relators Exhibit 340 is an authentic and genuine copy of WaterLegacy’s DPA request submitted on September 20, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 56:**

Admit that EPA, MPCA, and PolyMet participated in an in-person meeting regarding permitting the PolyMet Project on September 25, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 57:**

Admit that EPA and MPCA participated in an in-person meeting regarding permitting the PolyMet Project on September 26, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 58:**

Admit that Relators Exhibit 320 is an authentic and genuine copy of handwritten notes taken during the in-person meetings regarding permitting the PolyMet Project between EPA, MPCA, and PolyMet on September 25, 2018 and between EPA and MPCA on September 26, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 59:**

Admit that MPCA and PolyMet participated in a meeting regarding permitting the PolyMet Project on October 1, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 60:**

Admit that Relators Exhibit 321 is an authentic and genuine copy of handwritten notes taken during the meeting regarding permitting the PolyMet Project between MPCA and PolyMet on October 1, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 61:**

Admit that, on October 14, 2018, WaterLegacy submitted a DPA request for “all paper records, including but not limited to comments, letters, emails, memos, meeting notes, phone conversations notes, draft permits, draft certifications, presentations, monitoring data, or technical materials since January 2018 pertaining to . . . [any] proposed or draft [NPDES] permit for the PolyMet NorthMet Project” (Relators Ex. 341.)

RESPONSE:**REQUEST FOR ADMISSION No. 62:**

Admit that Relators Exhibit 341 is an authentic and genuine copy of WaterLegacy’s DPA request submitted on October 14, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 63:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on October 22, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 64:**

Admit that Relators Exhibit 322 is an authentic and genuine copy of handwritten notes taken during the call between MPCA and EPA on October 22, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 65:**

Admit that MPCA sent the pre-proposed final PolyMet NPDES permit to EPA for review on October 25, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 66:**

Admit that EPA and MPCA participated in a conference call regarding permitting the PolyMet Project on November 8, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 67:**

Admit that, on December 12, 2018, WaterLegacy submitted a DPA request for “all paper records, including but not limited to comments, letters, emails, memos, meeting notes, phone conversations notes, draft permits, draft certifications, presentations, monitoring data, or technical materials since January 2018 pertaining to . . . [any] proposed or draft [NPDES] permit for the PolyMet NorthMet Project” (Relators Ex. 346.)

RESPONSE:**REQUEST FOR ADMISSION No. 68:**

Admit that Relators Exhibit 346 is an authentic and genuine copy of WaterLegacy’s DPA request submitted on December 12, 2018.

RESPONSE:

REQUEST FOR ADMISSION No. 69:

Admit that MPCA issued PolyMet a final NPDES Permit for the PolyMet Project on December 20, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 70:**

Admit that, on January 1, 2019, WaterLegacy submitted a DPA request for “all paper records, including but not limited to comments, letters, emails, memos, meeting notes, phone conversations notes, draft permits, draft certifications, presentations, monitoring data, or technical materials since January 2018 pertaining to . . . [any] proposed or draft [NPDES] permit for the PolyMet NorthMet Project” (Relators Ex. 352.)

RESPONSE:**REQUEST FOR ADMISSION No. 71:**

Admit that Relators Exhibit 352 is an authentic and genuine copy of WaterLegacy’s DPA request submitted on January 1, 2019.

RESPONSE:**REQUEST FOR ADMISSION No. 72:**

Admit that, on February 3, 2019, WaterLegacy submitted a DPA request for “all data including but not limited to comments; letters; emails; memos; notes of meetings, phone conversations and/or viewing of screen shots; or other data regardless of its physical form or storage media, not yet provided in response to WaterLegacy’s September, October and December 2018 and January 2019 DPA requests, including data involving MPCA leadership or counsel, relating to the following: 1) Any comments or feedback provided by the U.S. EPA on the draft of pre=publication [NPDES] permit for the PolyMet NorthMet Project, specifically including but not limited to those read or shown by screen shot to MPCA in April 2018 or in the 45-day pre-publication review period” (Relators Ex. 354.)

RESPONSE:

REQUEST FOR ADMISSION No. 73:

Admit that WaterLegacy's February 3, 2019 DPA request asking for data "not yet provided in response to WaterLegacy's September, October and December 2018 and January 2019 DPA requests" also requested that "If there is any assertion that these documents are exempt from disclosure, please state with specificity the asserted grounds for that exemption."

RESPONSE:**REQUEST FOR ADMISSION No. 74:**

Admit that Relators Exhibit 354 is an authentic and genuine copy of WaterLegacy's DPA request submitted on February 3, 2019.

RESPONSE:**REQUEST FOR ADMISSION No. 75:**

Admit that MPCA's responses to WaterLegacy's various DPA requests contained no documents indicating that John Linc Stine had talked with Cathy Stepp between March 5 and March 15, 2018 regarding the draft PolyMet NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 76:**

Admit that the administrative record prepared for the Court of Appeals by MPCA contained no documents indicating that John Linc Stine had talked with Cathy Stepp between March 5 and March 15, 2018 regarding the draft PolyMet NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 77:**

Admit that MPCA's responses to WaterLegacy's various DPA requests contained no documents indicating that Shannon Lotthammer had requested between March 5 and March 15, 2018 that EPA provide no comments on the draft PolyMet permit within the public comment period.

RESPONSE:

REQUEST FOR ADMISSION No. 78:

Admit that the administrative record prepared for the Court of Appeals by MPCA contained no documents indicating that Shannon Lotthammer had requested between March 5 and March 15, 2018 that EPA provide no comments on the draft PolyMet permit within the public comment period.

RESPONSE:**REQUEST FOR ADMISSION No. 79:**

Admit that MPCA's responses to WaterLegacy's various DPA requests contained no documents reflecting the fact that EPA had prepared written comments on the draft PolyMet NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 80:**

Admit that the administrative record prepared for the Court of Appeals by MPCA contained no documents reflecting the fact that EPA had prepared written comments on the draft PolyMet NPDES permit.

RESPONSE:**REQUEST FOR ADMISSION No. 81:**

Admit that MPCA's responses to WaterLegacy's various DPA requests contained no documents reflecting the fact that EPA had read its written comments on the draft PolyMet NPDES permit aloud to MPCA on April 5, 2018.

RESPONSE:**REQUEST FOR ADMISSION No. 82:**

Admit that the administrative record prepared for the Court of Appeals by MPCA contained no documents reflecting the fact that EPA had read its written comments on the draft PolyMet NPDES permit aloud to MPCA on April 5, 2018.

RESPONSE:

REQUEST FOR ADMISSION No. 83:

Admit that MPCA's responses to WaterLegacy's various DPA requests did not contain the following documents (identified individually as A-AB) that were subsequently produced in this litigation:

A. RELATORS_0000043
B. RELATORS_0000057
C. RELATORS_0000058
D. RELATORS_0000059
E. RELATORS_0000060
F. RELATORS_0000061
G. RELATORS_0000062
H. RELATORS_0000115
I. RELATORS_0000160
J. RELATORS_0000228

K. RELATORS_0000243
L. RELATORS_0000244
M. RELATORS_0000275
N. RELATORS_0000281
O. RELATORS_0000287
P. RELATORS_0000290
Q. RELATORS_0000303
R. RELATORS_0000328
S. RELATORS_0000333
T. RELATORS_0000337

U. RELATORS_0000343
V. RELATORS_0000344
W. RELATORS_0000345
X. RELATORS_0000481
Y. RELATORS_0000482
Z. RELATORS_0000486
AA. RELATORS_0000677
AB. RELATORS_0000678

RESPONSE:**REQUEST FOR ADMISSION No. 84:**

Admit that the administrative record prepared for the Court of Appeals by MPCA does not contain the following documents (identified individually as A-BU) that were subsequently produced in this litigation:

A. RELATORS_0000001
B. RELATORS_0000002
C. RELATORS_0000022
D. RELATORS_0000023
E. RELATORS_0000026
F. RELATORS_0000028
G. RELATORS_0000029
H. RELATORS_0000032
I. RELATORS_0000033
J. RELATORS_0000039
K. RELATORS_0000041
L. RELATORS_0000042
M. RELATORS_0000043
N. RELATORS_0000049
O. RELATORS_0000050
P. RELATORS_0000053
Q. RELATORS_0000054
R. RELATORS_0000055
S. RELATORS_0000057
T. RELATORS_0000058

U. RELATORS_0000059
V. RELATORS_0000060
W. RELATORS_0000061
X. RELATORS_0000062
Y. RELATORS_0000109
Z. RELATORS_0000110
AA. RELATORS_0000115
AB. RELATORS_0000116
AC. RELATORS_0000158
AD. RELATORS_0000160
AE. RELATORS_0000228
AF. RELATORS_0000238
AG. RELATORS_0000239
AH. RELATORS_0000240
AI. RELATORS_0000241
AJ. RELATORS_0000242
AK. RELATORS_0000243
AL. RELATORS_0000244
AM. RELATORS_0000245
AN. RELATORS_0000275

AO. RELATORS_0000281
AP. RELATORS_0000285
AQ. RELATORS_0000286
AR. RELATORS_0000287
AS. RELATORS_0000290
AT. RELATORS_0000303
AU. RELATORS_0000308
AV. RELATORS_0000310
AW. RELATORS_0000311
AX. RELATORS_0000313
AY. RELATORS_0000314
AZ. RELATORS_0000328
BA. RELATORS_0000333
BB. RELATORS_0000337
BC. RELATORS_0000342
BD. RELATORS_0000343
BE. RELATORS_0000344
BF. RELATORS_0000345
BG. RELATORS_0000369
BH. RELATORS_0000370

BI. RELATORS_0000371
BJ. RELATORS_0000372
BK. RELATORS_0000373
BL. RELATORS_0000374
BM. RELATORS_0000375

BN. RELATORS_0000376
BO. RELATORS_0000377
BP. RELATORS_0000405
BQ. RELATORS_0000481
BR. RELATORS_0000482

BS. RELATORS_0000486
BT. RELATORS_0000677
BU. RELATORS_0000678

RESPONSE:

REQUEST FOR ADMISSION No. 85:

Admit that, in discovery for this proceeding, MPCA provided evidence of each and every instance of EPA's submission of written comments on NPDES permits since 2005.

RESPONSE:

REQUEST FOR ADMISSION No. 86:

Admit that the documents produced by MPCA referred to in Request for Admission No. 85 show that EPA submitted written comments on a pre-public notice draft permit, a draft permit, or both for more than 30 permits.

RESPONSE:

REQUEST FOR ADMISSION No. 87:

Admit that the documents produced by MPCA referred to in Request for Admission No. 85 show that EPA submitted written comments on both a pre-public notice draft or draft NPDES permit and the proposed final NPDES permit for two permits.

RESPONSE:

REQUEST FOR ADMISSION No. 88:

Admit that, on the two permits since 2005 where EPA submitted comments on a proposed final NPDES permit or draft permit as well as a pre-public notice draft permit, MPCA requested that EPA submit written comments on the proposed final permit.

RESPONSE:

REQUEST FOR ADMISSION No. 89:

Admit that, since 2005, there were no more than two NPDES permits issued by MPCA for which EPA submitted a written comment on the proposed final permit without previously sending written comments on the draft permit. (Relators Ex. 128.)

RESPONSE:**REQUEST FOR ADMISSION No. 90:**

Admit that, for one NPDES permit for which EPA submitted a written comment on the proposed final permit without previously sending written comments on the draft permit, MPCA protested that the late comment was “very frustrating.” (Relators Ex. 128.)

RESPONSE:**REQUEST FOR ADMISSION No. 91:**

Admit that, for one NPDES for which EPA submitted written comments on the proposed final permit without previously sending written comments on the draft permit, MPCA wrote to EPA “a comment letter disagreeing with our mercury approach will put us in a tough position when responding to comments from WaterLegacy.” (Relators Ex. 139)

RESPONSE:**REQUEST FOR ADMISSION No. 92:**

Admit that the final PolyMet NPDES permit issued by MPCA on December 20, 2018 did not establish any WQBELs.

RESPONSE:

[signature blocks on following page]

DATED: January 6, 2020

MASLON LLP

/s/ Evan A. Nelson

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