

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

WATERLEGACY,

Plaintiff,

Civ. No. 0:17-cv-276

v.

COMPLAINT

USDA. FOREST SERVICE,
THOMAS TIDWELL, in his official
capacity as Chief of the USDA Forest
Service; and CONSTANCE
CUMMINS, in her official capacity as
Forest Supervisor of the Superior
National Forest,

Defendants.

NATURE OF THE ACTION

1. Plaintiff is seeking declaratory and injunctive relief for violations of the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.* ("APA") and the Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq.* ("FLPMA") and its implementing regulations and policies.
2. On January 9, 2017, the United States Department of Agriculture Forest Service ("Forest Service") issued a final Record of Decision ("ROD") approving a land exchange known as the PolyMet NorthMet Land Exchange ("PMLE"), the purpose of which is to enable a foreign corporation, the PolyMet Mining, Inc. ("PolyMet"), to develop an open-

pit copper-nickel mine on lands subject to Weeks Act protection in the Superior National Forest.

3. The PMLE is a proposal to exchange 6,650 acres of contiguous federal land in the Superior National Forest in east-central St. Louis County, Minnesota for 6,690 acres of private land in four tracts of land, representing ten non-contiguous parcels in St. Louis County and Lake County, Minnesota. According to the Forest Service Biological Assessment for the PMLE, the PMLE would be the largest land exchange ever conducted by the Forest Service.

4. The Forest Service valued the federal lands for the PMLE solely for timber investment at \$550 per acre, failed to consider the market value of the lands for mining purposes, failed to consider sales to mining companies in Northeastern Minnesota's private market listed in the appraisal with an average price of \$1,645 per acre, and failed to consider additional data in Minnesota's private market demonstrating that mining companies pay a substantial premium compared to similar properties sold to private parties for non-mining purposes.

5. In evaluating the PMLE, the Forest Service failed to comply with requirements of FLPMA and its implementing federal regulations and policies – including but not limited to failure to consider the property as a whole - including mineral rights, failure to apply the highest and best use to appraise the federal property, and failure to establish that the exchanged parcels are of equal value. Forest Service approval of the PMLE was arbitrary, capricious, an abuse of discretion and exceeded statutory authority and was otherwise not in accordance with applicable law.

6. Plaintiff seeks declaratory and injunctive relief: (1) vacating the ROD approving the land exchange; (2) requiring the Forest Service to stop the land exchange before title transfers and the exchange is finalized; and (3) prohibiting the land exchange until the Forest Service has complied with FLPMA and its implementing regulations.

7. Plaintiff will also seek such preliminary and permanent injunctive relief against the implementation of the final PMLE as may be necessary to preserve the *status quo* and prevent unlawful agency action that is likely to cause irreparable harm to Superior National Forest public lands and to plaintiff and its members.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (Federal Question), 43 U.S.C. § 1701(a)(6) (FLPMA policy on judicial review) and 5 U.S.C. §§ 701-706 (judicial review provisions of the APA), and is authorized to provide the relief sought under 28 U.S.C. §§ 2201 and 2202 (declaratory and injunctive relief).

9. Venue in this Court is proper under 28 U.S.C. § 1391(e). The Superior National Forest land proposed for exchange and the Forest Service Supervisor issuing the final PMLE decision are located in this District. The consequences of the defendants' violations of the laws giving rise to plaintiff's claims have occurred or will occur in this District.

PARTIES

10. Plaintiff WaterLegacy is a Minnesota non-profit organization founded to protect Minnesota's water resources, wetlands, wildlife, and habitats and the communities that rely on them, particularly from the threat of copper-nickel mining in sulfide-bearing ore

in Northeastern Minnesota. Many of plaintiff's board members, advisory committee members and supporters live in Northeastern Minnesota and use the Superior National Forest for a variety of purposes, including hiking, canoeing, gathering wild rice and other plants, fishing, bird watching, wildlife viewing, photography, recreation, solitude, and educational and scientific purposes. Plaintiff's members intend to continue these activities and will be affected by the PMLE should it be permitted to proceed. One of plaintiff's members owns property in a Superior National Forest inholding a few miles cross-country from the federal land proposed to be exchanged, and watches wildlife and enjoys quietude that would be affected by the use of the federal lands for the proposed PolyMet mine. Several of plaintiff's members have canoed, waded, viewed plants and wildlife, and conducted scientific testing in the Superior National Forest on or near the federal lands proposed for exchange. The mission for which WaterLegacy was founded will be adversely impacted and individual members of WaterLegacy will be directly affected if the PMLE is allowed to proceed.

11. Plaintiff submitted timely and specific written comments during the scoping for the PMLE on November 29, 2010 and during the comment period for proposed PMLE on March 13, 2014. Plaintiff also filed timely and specific objections to the Forest Service Draft Record of Decision to approve the PMLE on January 4, 2016, pursuant to 36 C.F.R. Part 218, which objections included failure of the PMLE to comply with FLPMA, failure to appraise Superior National Forest lands according to their highest and best use, and failure to establish the equal value of the proposed exchange.

12. Defendant the USDA Forest Service is an agency within the United States Department of Agriculture charged with the responsibility of managing natural resources within the national forests throughout the United States.

13. Defendant Thomas L. Tidwell is named in his official capacity as the Chief of the USDA Forest Service and is the highest level official responsible for management actions carried out by the Forest Service - including the land exchange and process at issue herein.

14. Defendant Constance Cummins is named in her official capacity as the Forest Supervisor of the Superior National Forest; her name appears as the deciding officer for the final ROD approving the PMLE, which constituted final agency action.

ALLEGATIONS COMMON TO ALL CLAIMS

15. The PMLE is a proposal to exchange 6,650 acres of contiguous federal land in the Superior National Forest in east-central St. Louis County, Minnesota for 6,690 acres of private land in four tracts of land, representing ten non-contiguous parcels in St. Louis County and Lake County. The Forest Service issued its final ROD approving the PMLE on January 9, 2017, a copy of which is filed with this Complaint as Plaintiff's Exhibit 1.

16. According to the Forest Service Biological Assessment for the PMLE, the PMLE would be the largest land exchange ever conducted by the Forest Service.

17. The federal lands proposed for the PMLE include lands of Minnesota County Biological Survey High Biodiversity, including lands in the 100 Mile Swamp and the Upper Partridge River Site located in the headwaters to the St. Louis River, the largest United States tributary to Lake Superior. These lands are held by the Superior National

Forest for forest purposes including wetlands, mature forest and habitat protection; wildlife; recreation; carbon sequestration and other ecological services; general public enjoyment; and timber harvest.

18. The Superior National Forest federal lands proposed to be exchanged and some of the adjacent lands include lands where members of the Lake Superior Chippewa Tribe have rights to hunt, fish and gather plants on these lands under the Treaty of 1854.

19. The PMLE is proposed to allow PolyMet to develop an open-pit copper-nickel mine in sulfur-bearing rock. This would be Minnesota's first proposed nonferrous mine. The PolyMet mine would result in the excavation of three mine pits, with variable depths to 696 feet, and three waste rock stockpiles, one of which would be a permanent 526-acre waste rock pile.

20. PolyMet controls mineral rights to the ore body it proposes to mine on the federal lands through long-term mineral leases. The United States owns the remainder of the property rights on the federal lands, including rights to the surface lands that would be removed to enable PolyMet to access minerals as well as 181 acres of mineral rights on that are not part of PolyMet's proposed open-pit mining proposed action.

21. The federal lands proposed for the PMLE are located in east-central St. Louis County, approximately 75 miles north of Duluth on the eastern edge of the Mesabi Iron Range near the small communities of Babbitt, Hoyt Lakes and Aurora. The federal lands are located adjacent to historic mining projects and are near other privately held land used for mining purposes.

22. The federal lands proposed for the PMLE and privately owned lands in the same vicinity are zoned Mining and Minerals by the City of Babbitt.

23. A mineral report for the federal lands prepared in December of 2010 concluded that the federal property may have significant value for copper, nickel, platinum group metals and other minerals and that its mineral potential was sufficiently compelling that the United States should reserve the remaining mineral estate on 181 acres of the federal lands.

24. The Forest Service final ROD states that the specific intent of the PMLE is that PolyMet would acquire the federal property in order to develop an open-pit mine and gain access to copper, nickel, platinum group metals and other minerals beneath the surface.

25. The federal land proposed for the PMLE was purchased by the Forest Service for National Forest purposes, under the authority of the Act of March 1, 1911, also known as the Weeks Act, 16 U.S.C. § 515. All of the national forest lands in the federal parcel proposed for the PMLE have Weeks Act status pursuant to The Weeks Act Status for Certain Lands Act of September 2, 1958. 16 U.S.C. § 521a.

26. The Forest Service has taken the position that the mineral rights that were reserved when lands were conveyed to the United States do not include the right to surface mine as proposed by PolyMet.

27. Due to the inconsistency between National Forest management objectives and PolyMet's intended mining operations, in the absence of the PMLE the Forest Service is

not willing or able to authorize such private, surface mining operations on lands of the Superior National Forest.

28. The Forest Service's stated purpose and need for the PMLE is to eliminate the conflict between PolyMet's desire to surface mine and the Forest Service ownership and management of Superior National Forest lands and avoid the potential that PolyMet would litigate in order to secure the right to surface mine on the federal lands.

29. The Forest Service final ROD acknowledges that the No Action alternative to the PMLE is the environmentally preferred alternative.

30. No permits have been issued for the proposed PolyMet open-pit copper-nickel mine. In order to proceed with development of the proposed mine, PolyMet would require many state and federal permits, including a federal Clean Water Act Section 404 permit for wetlands dredge and fill activities.

31. The decision approving the PMLE was based on an appraisal performed by William M. Steigerwaldt, Compass Land Consultants, Inc. ("CLC appraisal"). The CLC appraisal was completed effective April 12, 2015 and approved by the Forest Service on July 8, 2015.

32. Plaintiff sought copies of Forest Service appraisals and appraisal instructions pertaining to the PMLE since December 14, 2012 under the Freedom of Information Act ("FOIA"). Plaintiff requested production under the FOIA of the 2015 appraisal, upon which the Forest Service relied for its final ROD approving the PMLE, in an FOIA request on July 30, 2015 and in an FOIA appeal on October 22, 2015, in order to understand the basis for valuation prior to submitting objections to the PMLE on January

4, 2016. Plaintiff did not receive a copy of this CLC appraisal until on or about October 8, 2016 - ten months after the time for public objections to the PolyMet land exchange had lapsed.

33. The CLC appraisal narrative Real Estate Report for Federal Tract #1 (Option 1) pertaining to the federal lands proposed to be exchanged in the PMLE is filed with this Complaint as Plaintiff's Exhibit 2. Several photographs of the federal lands provided in the CLC appraisal are filed with this Complaint as Plaintiff's Exhibit 3.

34. The Forest Service final ROD asserts, based on the CLC appraisal, that the federal lands have a value of \$3,658,000 and that the non-federal lands have a value of \$4,083,000, such that the value of the non-federal lands is within 25% of the value of the federal land. The Forest Service proposes to make a cash equalization payment of \$425,000 to PolyMet as part of the PMLE.

35. In 2013, CLC entered into a contract with PolyMet to develop an opinion of value for the federal property for the purpose of the proposed PMLE. This assignment included a timber inventory and timber appraisal. As part of the original agreement with PolyMet, CLC agreed to provide an updated appraisal within a two-year period. For the updated appraisal, instructions were received from the Forest Service.

36. The valuation of the federal lands by CLC for the PMLE was based only on the highest and best use for "timber investment."

37. Sales comparisons were made with land only used for timber purposes. The five properties used for sales comparisons were all located in Wisconsin and Michigan,

including three comparisons with scattered sales of much larger acreage than the federal lands (49,563 acres, 72,820 acres and 99,923 acres).

38. Based on these sales, which the CLC deemed comparable sales, the appraisal valued the federal property under the sales comparison approach at \$615 per acre.

39. CLC also valued the federal property for timber under the income approach at an average of \$466 per acre, and reduced the value of the federal lands proposed for the PMLE to \$550 per acre, resulting in a final valuation of the federal lands at \$3,658,000 as of April 12, 2015.

40. In its appraisal, CLC identified nine Northeastern Minnesota sales of land to mining companies by private parties from 2008 to 2012, with prices ranging from \$624 to \$2,556 per acre, and an average price of \$1,645 per acre.

41. However, none of these Northeastern Minnesota sales of land to mining companies by private parties and no other sales of land to mining companies by private parties were considered by the CLC appraisal in determining the reasonable highest and best use of the federal property or the market value of the federal property, and none were considered by the Forest Service in approving the PMLE.

42. Plaintiff submitted the CLC appraisal to a Minnesota expert to understand the methodology and basis of the Forest Service valuation of federal lands. On January 16, 2017, Jason L. Messner, MAI, an expert appraiser and the President/Principal of the Minnesota firm of Patchin Messner Dodd & Brumm, provided plaintiff with the Review of an Appraisal Report: Superior National Forest/PolyMet Mining, Inc. ("Messner

Appraisal Review”), described in the Affidavit of Jason L. Messner and provided with this Complaint as Plaintiff’s Exhibit 4.

43. The Messner Appraisal Review explains the CLC appraisal and the application of technical appraisal standards to the subject property and concludes that the valuation of federal lands on which the Forest Service relies is not reasonable and results in a conclusion as to the value of the federal lands that is not credible.

FIRST CLAIM FOR RELIEF (VIOLATION OF APA & FLPMA)
Failure to Establish Equal Value of Federal and Non-Federal Lands

Plaintiff realleges and incorporates by reference the allegations contained above as though fully set forth herein.

44. The Federal Land Policy and Management Act (“FLPMA”) requires that the value of federal and non-federal lands involved in an exchange be of equal market value, and that equal value be established before a land exchange may take place. For lands with more than \$150,000 of value, such as the subject property, the difference in value between federal and non-federal lands cannot exceed 25 percent. 43 U.S.C. §1716(b); 36 C.F.R. §254.12(b).

45. FLPMA also mandates that the appraisal standards used by the agencies “reflect nationally recognized appraisal standards, including to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions.” 43 U.S.C. §1716(f)(2); 36 C.F.R. §§ 254.2, 254.42(b).

46. Uniform Appraisal Standards for Federal Land Acquisitions (“UASFLA”) require that lands be appraised as if in private ownership and available for sale in the open

market. Lands must be valued at their most profitable use allowed by law to be carried out on the premises, considered in terms of physical possibility, legal permissibility and financial feasibility.

47. The UASFLA require that when a property is adaptable to a use other than the existing use, its marketable potential for such use should be considered to the extent that potential affects market value. The UASFLA further require when land is underlaid with marketable minerals, whether or not they are in separate ownership, the existence of those minerals must be considered in determining the market value of the property.

48. The UASFLA also specify that an appraisal's opinion of value shall be supported by confirmed sales of comparable or nearly comparable lands having like optimum uses. In selecting the comparable sales to be used in valuing a given property, the greatest weight should be given to the properties most comparable to the property being appraised.

49. The federal lands proposed for exchange in the PMLE would far exceed the value of the non-federal lands if an appraisal were performed consistent with the requirements of FLPMA and the UASFLA. The Forest Service appraisal does not comply with FLPMA and the UASFLA, does not establish equal valuation, and is flawed in at least the following respects:

- a. The appraisal does not value the federal property for mining related use, which is the most profitable use for the lands in the private market and is physically possible, financially feasible and permitted under existing zoning.

- b. The appraisal does not consider the contribution of marketable minerals to the value of the federal property, despite UASFLA requirements that the whole property be valued, even when ownership of surface rights and mineral rights is divided.
- c. In valuing the federal lands at \$550 per acre, the appraiser failed to compare recent sales of surface lands by private owners to mining company purchasers in Northeastern Minnesota, although the appraisal listed nine such private sales with prices ranging from \$624 per acre to \$2,556 per acre, at an average price of \$1,645 per acre.
- d. In valuing the federal lands, the appraiser failed to consider the subject property's unique location and mining potential and that recent transactions in Northeastern Minnesota's private market have reflected premiums paid by mining companies as compared to land purchased by non-mining buyers.

50. The Forest Service's failure to appraise the market value of the federal lands for the PMLE as a whole property, failure to value the lands according to their most profitable, feasible, probable and intended use for mining related purposes, and failure to value the lands based on the most comparable Northeastern Minnesota transactions by mining companies in the private market reflected a willful blindness of the Forest Service to the intended use of the federal property; was neither reasonable nor credible; undervalued the federal lands; failed to comply with FLPMA; was arbitrary, capricious and an abuse of discretion in violation of the APA; exceeded statutory limitations on the Forest Service's authority under FLPMA; would create an illegal windfall for PolyMet at

the expense of federal taxpayers; and requires that the PolyMet land exchange be set aside.

SECOND CLAIM FOR RELIEF
(VIOLATION OF APA, FLPMA, RULES & DIRECTIVES)
Arbitrary, Capricious and Unlawful Failure
to Consider Highest and Best Use for Mining Related Purposes

Plaintiff realleges and incorporates by reference the allegations contained above as though fully set forth herein.

51. FLMPA, the UASFLA, federal regulations implementing FLPMA and the Forest Service Directive System, consisting of the Forest Service Manual and Handbooks, require that equal value determinations for land exchanges be based on the highest and best use of the property, estimating the value of lands and companies as if in property ownership and available for sale in the open market. 43 U.S.C. §1716(f)(2); 36 C.F.R. §§254.2, 254.9(b)(i), (ii); Forest Service Manual (“FSM”) 5410.5; Forest Service Appraisal Handbook (“FSH”) 5409.12, ch. 10, § 12.1. In determining the highest and best use, the appraiser must consider the uses of similar properties being purchased in the market area. FSH 5409.12, ch. 10, §13.34.

52. Federal regulations require that an agency appraisal consider the contributory value of minerals to the extent consistent with the highest and best use of the property. 36 C.F.R. §254.9(b)(iv). Premiums may be paid for land based on the presence of valuable minerals, and the value of minerals should be carefully examined to the extent that private industry would examine them. FSH 5409.12, ch. 10, §12.22(11).

53. Property from which one or more minerals could be economically produced may be appraised as a mineral property if the real property market recognizes that value. Market value may be based on demonstrated anticipation of new uses or perceived potential for the occurrence of a valuable mineral deposit on the property and on facts showing that the physical and economic possibility of such activity would be reflected in the price agreed upon between a willing buyer and seller having knowledge of all such characteristics and that private demand for the land for mineral exploitation is a substantial probability. FSH 5409.12, ch. 20, §23.

54. The federal lands proposed for exchange in the PMLE would far exceed the value of the non-federal lands if they were valued at their highest and best use for mining related purposes. The appraised values of the federal land solely as “timber investment” property are too low, contrary to the market, and contrary to federal regulations and directives in at least the following respects:

- a. The appraisal improperly failed to consider that the purpose and intent of the PMLE is to enable PolyMet to use the federal lands for an open-pit copper-nickel mine and related uses; the geo-specific location of the federal lands; that the federal lands are zoned for mineral use; and that the Forest Service’s mineral report has determined they have significant value for copper, nickel, platinum group metals and other minerals.
- b. The appraisal improperly failed to consider that the highest and best use of the property for valuation purposes is for mining related uses and that sales in Northeastern Minnesota’s private market demonstrate that mining companies

have paid a premium to purchase lands for such uses. Failure to consider the anticipated, probable and intended use of the property for mining related uses resulted in an opinion of value that is unreasonably low.

- c. The appraisal further devalued the federal lands by applying a timber income approach, which is an unreasonable valuation of lands proposed for exchange to allow development of an open-pit mine.
- d. The appraisal also failed to consider that the premium paid for the contributory value of minerals underlying private lands in Minnesota may be less than that applicable to the subject lands proposed for the PMLE. In Minnesota, private surface lands are subservient to state mineral leases under separate ownership. Minn. Stat. §93.05, Subd. 2.

55. The Forest Service's failure to appraise the federal lands according to their highest and best valuation use for mining related purposes was neither reasonable nor credible; was arbitrary, capricious and an abuse of discretion in violation of the APA; exceeded statutory limitations on the Forest Service's authority under FLPMA; failed to comply with FLPMA, federal regulations implementing FLPMA, and the Forest Service Manual and Handbooks; and requires that the PolyMet exchange be set aside.

**THIRD CLAIM FOR RELIEF
(VIOLATION OF APA, FLPMA, RULES & POLICIES)
Arbitrary, Capricious and Unlawful Failure
to Use Comparable Sales in Determining Market Value**

Plaintiff realleges and incorporates by reference the allegations contained above as

though fully set forth herein.

56. The UASFLA is applicable to determination of value for land exchanges under FLPMA, federal regulations and Forest Service directives. 43 U.S.C. §1716(f)(2); 36 C.F.R. §§ 254.2, 254.42(b); FSH 5409.12, ch. 60, §65.1. The UASFLA requires that an appraisal of value be supported by sales of comparable lands having like optimum uses; that items of comparison shall include market conditions, locations, and physical characteristics, and that the greatest weight be given to the properties most comparable to the property under appraisal.

57. The Forest Service Appraisal Handbook states that nearby arm's length transactions, comparable to the land under appraisal, and reasonably current are the best evidence of market value and states that the sales comparison approach is normally the best evidence of market value. FSH 5409.12, ch. 60, § 66, Exhibit 01, Basic Specifications for Real Property Appraisals C-2.2 (b)(3), Part III.

58. The federal lands proposed for exchange in the PMLE would far exceed the value of the non-federal lands if they were valued using sales of comparable lands having like uses with optimum profitability. The appraisal unreasonably failed to use multiple arms length sales in Northeastern Minnesota of surface lands to mining companies with potential uses for mining purposes for sales comparisons. As a result the sales comparisons in the appraisal are flawed, too low and inconsistent with the UASFLA and the Forest Service Appraisal Handbook as follows:

- a. The appraisal failed to use any sales of lands with potential mining related uses to value the federal property, which sales are most comparable to the federal lands under appraisalment.
- b. The appraisal excluded from comparison even the nine Northeastern Minnesota private sales of lands to mining companies between 2008 and 2012 identified in the appraisal itself. The appraisal considered no other sales of Northeastern Minnesota land to mining companies in selecting comparable sales.
- c. The appraisal compared sales in Wisconsin and Michigan with dissimilar acreage and no apparent mining potential to value the subject federal lands.
- d. Had comparable properties sold to mining industry purchasers in Northeastern Minnesota's private market in recent years been used for valuation, the value of the federal lands would have been significantly higher than the \$550 per acre valuation in the Forest Service appraisal of the federal property. The nine Minnesota properties sold to mining companies listed in the appraisal were priced in the private market at an average of \$1,645 per acre. Recent purchases of property with mining potential in Minnesota's Aitkin County were priced at an average of \$3,885 per acre, compared to \$1,149 per acre for land purchased in that area by private non-mining purchasers.

59. Had the sales most comparable to the federal lands been used for valuation, including but not limited to the nine sales to mining companies in Northeastern Minnesota listed in the appraisal and other similar arms length sales identified in the

Messner Appraisal Review, with no timber income approach used to further devalue the federal lands, the value of Superior National Forest lands proposed for the PMLE would have substantially exceeded the \$550 per acre value asserted by the Forest Service appraisal, precluding the proposed exchange as an unequal exchange in violation of FLPMA, implementing federal regulations and Forest Service directives.

60. The Forest Service's failure to appraise the federal lands using the most comparable sales was unreasonable and not credible; was arbitrary, capricious and an abuse of discretion in violation of the APA; exceeded statutory limitations on the Forest Service's authority under the FLPMA; failed to comply with FLPMA, federal regulations implementing FLPMA and Forest Service directives; and requires that the exchange be set aside.

RELIEF REQUESTED

WHEREFORE, plaintiff respectfully requests that the Court:

- A. Enter a Declaratory Judgment that defendants' actions were arbitrary, capricious, an abuse of discretion, or otherwise unlawful under the APA, FLPMA and its implementing regulations, and that the exchange of Superior National Forest lands to enable development of the PolyMet open-pit mine ("PMLE") cannot proceed without such compliance.
- B. Vacate and set aside the Forest Service ROD approving the PMLE.
- C. Enjoin the Forest Service from approving the PMLE or taking any other action to proceed with the PMLE or transfer title to Forest Service land unless and until the Forest Service completes another appraisal, proposes and approves an exchange that complies

with the requirements of FLPMA.

D. Provide such preliminary injunctive relief as plaintiff may request to preserve the *status quo* pending litigation, to prevent the transfer of federal lands to PolyMet, and to preserve the public management and character of federal public lands.

E. Award plaintiff its reasonable fees, expenses, costs, and disbursements, including attorneys' fees associated with this litigation under the Equal Access to Justice Act, 28 U.S.C. § 2412.

F. Grant plaintiff such further and additional relief as the Court may deem just and equitable.

Dated this 30th day of January 2017.

JUST CHANGE LAW OFFICES
s/Paula G. Maccabee
Paula Goodman Maccabee (#129550)
1961 Selby Avenue
St. Paul, MN 55104-5822
Telephone: (651) 646-8890
Facsimile: (651) 646-5754
Mobile: (651) 775-7128
Attorney for Plaintiff WaterLegacy