

STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES

**Mesabi Nugget Phase II Project  
St. Louis County, Minnesota**

*EIS SCOPING PROCEDURES*

1. Mesabi Mining, LLC and Steel Dynamics, Inc. propose to reactivate operations at the former LTV Steel Mining Company site to produce iron ore concentrate. The project (hereinafter “the Project”) is called Mesabi Nugget Phase II. The proposed project will reactivate portions of the former Erie Mining/LTVSMC mine near Hoyt Lakes, Minnesota. Proposed actions include dewatering of existing mine pits in the area to be followed by open pit-type mining operations to remove ore and overburden, or waste rock. Waste rock would be stockpiled near the mine pits while ore would be transported to the proposed crusher and concentrator plant. Tailings from the concentrator are proposed to be discharged to the former Erie Mining Company Area 1 Pit. Taconite concentrate would be delivered to the Mesabi Nugget Large Scale Demonstration Project, or LSDP Plant, sold, or shipped to out-of-state facilities owned by the proposer. The LSDP Plant is a previously permitted operation that is co-located at the proposed project site.
2. The Minnesota Department of Natural Resources (DNR) is the designated Responsible Government Unit (RGU) for construction of a new metallic mineral processing facility according to Minnesota Rules part 4410.4400, subparts 8b and 8c.
3. The United States Army Corps of Engineers (USACE) is serving as co-lead agency in preparation of the EIS with the DNR. The USACE received an application from Mesabi/Nugget to discharge fill material in waters of the U.S., including wetlands, to develop the Mesabi Nugget Phase II project. The USACE has determined that its action on the permit would be a major federal action that could significantly affect 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).
4. An EIS is mandatory for this project pursuant to Minnesota Rules part 4410.2000, subpart 2, the rule that an EIS shall be prepared if the project meets or exceeds the thresholds of any of the EIS categories listed in part 4410.4400. Minnesota Rules part 4410.4400, subparts 8B and 8C (Metallic Mineral and Processing) indicate mandatory preparation of an EIS for construction of a new mew facility for mining metallic minerals or for the disposal of tailings from a metallic mineral mine and construction of a new metallic mineral processing facility, respectively.
5. As required by Minnesota Rules part 4410.2000, subpart 2, the DNR will prepare an EIS for the project. The EIS will meet all the applicable requirements of Minnesota Rules parts 4410.0200 to 4410.6500 (EQB rules) that regulate the Minnesota Environmental Review Program. The DNR will obtain the services of a consultant to assist in EIS preparation but will retain control of and responsibility for the content and analysis contained in the EIS.
6. The EQB rules require a thorough but succinct discussion of potentially significant direct or indirect, adverse, or beneficial effects generated. Data and analyses shall be commensurate with the importance of the impact and the relevance of the information to a reasoned choice among alternatives and to the consideration of the need for mitigation measures.

7. The EQB rules direct the RGU to consider the relationship between the cost of data and analyses and the relevance and importance of the information in determining the level of detail of information to be prepared for the EIS.
8. In 1997, the EQB amended its rules to emphasize that only potentially significant issues need to be addressed in the EIS. The amendment brought the rules into conformity with Minnesota Statutes Section 116D.04, Subdivision 2a, which states that an EIS analyzes the proposed project's significant environmental impacts. In addition, the amendment "shifts the focus of scoping towards the purpose of the EIS (better decision making) and away from merely responding to public controversy," (March 6, 1995 Statement of Need and Reasonableness).
9. The DNR prepared and issued for public review and comment a Scoping Environmental Assessment Worksheet (EAW) and Draft Scoping Decision Document, both prepared in accordance with Minnesota Rules part 4410.2100.
10. The Notice of Availability for review of the Scoping EAW and Draft Scoping Decision Document was published in the EQB *Monitor* (Vol. 32, No. 16) on August 11, 2008, thereby beginning a mandatory 30-day public review and comment period, which concluded September 10, 2008 per Minnesota Rules part 4410.2100, Subpart 3A.
11. The DNR supplied a press release to at least one newspaper in the vicinity of the proposed project announcing the availability of the Scoping EAW and Draft Scoping Decision Document, the opportunity for public comment, and the location of review copies.
12. The DNR provided public review copies of the scoping document to four public libraries as well as the DNR Library in St. Paul, the DNR Northeast Regional Office in Grand Rapids, Minnesota, and the Legislative Reference Library in St. Paul, Minnesota.
13. On Wednesday, September 3, 2008, the DNR held a public scoping meeting, as required by Minnesota Rules Part 4410.2100, subpart 3B, at the Aurora Community Center from 6:00 p.m. until 9 p.m. Approximately 120 people attended the meeting. The attendees received information about the Minnesota Environmental Review Program, the project, the proposed EIS contents, and were given an opportunity to ask questions about the EIS process. The DNR provided an opportunity for attendees to provide oral comment; comment forms for submitting comments on the proposed EIS scope were also available.
14. The DNR and USACE received 5 comment letters and no verbal comments (during the scoping meeting) on the Scoping EAW and Draft Scoping Decision Document during the 30-day review and comment period. Written comments were received from: (1) The Lac Vieux Desert Band of Lake Superior Chippewa Indians; (2) The Grand Portage Band Of Chippewa; (3) the 1854 Treaty Authority; (4) The Fond du Lac Band of Chippewa; and (5) The United States Environmental Protection Agency.
15. The EQB rules do not require the RGU to respond to comments received on the Scoping EAW and Draft Scoping Decision Document, but require the RGU to consider the comments received in developing the Final Scoping Decision.
16. The EQB rules require the RGU to Issue a Final Scoping Decision within 15 days after the close of the 30-day scoping period. Due to new data and information provided by the proposer and complexity of the issues, the date to issue the Final Scoping Decision was extended.

17. The DNR and USACE considered the comments received during the scoping period and made revisions to the Draft Scoping Decision Document as warranted, and issued the Final Scoping Decision on December 9, 2008.
18. The Scoping Decision will be sent, within five days of completion, to all parties on the EQB Distribution List, to all parties submitting comments on the draft EIS scope, and to all parties requesting copies.
19. Comments received, and responses or discussion of their consideration, are attached to this document.

**MESABI NUGGET PHASE II PROJECT  
ST. LOUIS COUNTY, MINNESOTA**

**RESPONSES TO EIS SCOPING COMMENTS**

The DNR and USACE received five comment letters on the Scoping EAW and Draft Scoping Decision Document during the 30-day review and comment period.

Comments were received from:

Nick Axtell, 1854 Treaty Authority  
Giiwegiizhigookway Martin, Lac Vieux Desert Band of Lake Superior Chippewa Indians  
Margaret Watkins, Grand Portage Band of Chippewa  
Nancy Schuldt, Fond du Lac Band of Lake Superior Chippewa  
Kenneth A. Westlake, US Environmental Protection Agency

The comments relating to the EIS scope are condensed and summarized below. In some cases, similar comments were submitted in multiple letters; these are treated as one. Copies of the comment letters are attached for reference. The comments primarily address issues already proposed for some degree of EIS inclusion in the Draft Scoping Decision. Other comments necessitated additions to, or clarification of, information in the both scoping documents. The responses identify substantive comment-based revisions to the Draft Scoping Decision Document.

**Comments Relating to the Scoping EAW**

A number of comments on the Scoping EAW indicated it lacked information in some areas. The EQB's *Guide to Minnesota Environmental Review Rules* advise RGUs that for significant EIS topics, little factual information should be included in the EAW. Instead, the EAW may simply state that the EIS will include a major discussion of the topic and provide a description of its intended scope and study methods. Consequently the EAW contains the least detailed information about issues that will be discussed extensively in the EIS, and more complete information regarding issues that will not be covered in the EIS.

Several comments addressed inaccuracies or omissions in the Scoping EAW. This information will be corrected in the EIS.

**Comments Relating to Proposed EIS Scope**

Comments and issues regarding the proposed EIS scope are organized below by corresponding section of the Draft Scoping Decision Document. The Final Scoping Decision Document will be renumbered as necessary to reflect substantive changes made to the scope in response to public comments.

**1.0 INTRODUCTION AND PURPOSE**

The DNR/USACE received no comments regarding this section.

**2.0 PROJECT ALTERNATIVES**

The DNR/USACE received no comments regarding this section.

### 3.0 EIS ISSUES

- 3.1 *Topic has been adequately analyzed in the EAW. Topic is not relevant or is so minor that it will not be addressed in the EIS. The Scoping EAW will be appended to the EIS for reference.*

#### Water Surface Use (Item 15)

The DNR/USACE received no comments regarding this section.

#### Vehicle Related Air Emissions (Item 23)

**Comment:** Will HAP [Hazardous Air Pollutants] emissions from tailpipe emissions be included in the HAP analysis? They should be included. (Fond du Lac Band)

**Consideration/Response:** Tailpipe emissions of HAPs will be calculated, reviewed by the Minnesota Pollution Control Agency (MPCA), and included in the Air Emissions Risk Assessment (AERA).

**Substantive changes reflecting comments:** Section 3.3.7.2, Stationary Source Air Emissions, Risk Assessment will be amended to note calculation of tailpipe emissions HAPs for inclusion in the AERA.

#### Nearby Resources; Archaeological; Architectural; Unique/Prime Farm Lands; Designated Parks, Recreation Areas, Trails; Scenic Views and Vistas; Other Unique Resources (Item 25)

The DNR/USACE received no comments regarding this section.

- 3.2 *Significant impacts are not expected; topic will be discussed briefly in the EIS using the same information as the EAW.*

The DNR/USACE received no comments regarding this section.

#### 3.2.1 Project Description (Item 6)

**Comment:** The proposed action as described in the Scoping EAW was summarized. (USEPA)

**Consideration/Response:** Comment noted.

**Substantive changes reflecting comments:** None.

#### 3.2.3 Project Magnitude Data (Item 7)

The DNR/USACE received no comments regarding this section.

#### 3.2.3 Permits and Approvals (Item 8)

The DNR/USACE received no comments regarding this section.

#### 3.2.4 Land Use (Item 9)

The DNR/USACE received no comments regarding this section.

### 3.2.5 Cover Types (Item 10)

**Comment:** Project-related loss and disturbance of wooded/forest cover contributes to overall loss of forest cover acreage in the Great Lakes Region. Forest cover is projected to have declined from a pre-settlement size of 81 million acres to the present size of 49 million acres. The white pine forest has declined from 3.4 million acres to 0.49 million acres. A large amount of this loss is due to clearing for agriculture, but urbanization and infrastructure projects like the proposed project continue to whittle away at the forest coverage. (Fond du Lac Band)

**Consideration/Response:** Comment noted.

**Substantive changes reflecting comments:** None.

**Comment:** The role of project-related wetland and forest cover type loss should be considered relative to global climate change impacts. These resources serve as carbon “sinks,” thus sequestering carbon from carbon dioxide component of the carbon cycle. The commenter notes that forests and soils typically reflect a net positive carbon balance between 15 and 800 years of age; this means that they absorb more carbon dioxide than is released. Quantitative carbon cycle data is now available for different ecotypes, including forests and wetlands. Climate change impacts should be considered in the EIS. (Fond du Lac Band)

**Consideration/Response:** Comment noted. The EIS will discuss the role played by forests and wetlands as carbon “sinks” and provide an estimate of changes in carbon sequestration due to project-related cover type conversion. Emphasis will be placed on wetlands and forest as noted in the comment.

**Substantive changes reflecting comments:** Section 3.2.5, Cover Types, will be amended to note provision of project-related changes in carbon sequestration from cover type conversion.

### 3.2.6 Fish Resources (Item 11a)

**Comment:** Several lakes, the Partridge River, and the St. Louis River are likely to be affected by mining operations. This can negatively impact fish species and wild rice, thus affected the 1854 Treaty rights to subsistence harvesting in those water bodies.

**Consideration/Response:** The 1854 Treaty protects the right to hunt and fish. The EIS will evaluate potential project-related effects to subsistence harvesting of fish resources and wild rice in the noted waters.

**Substantive changes reflecting comments:** Section 3.4.2.2.1 is created to provide for the assessment of potential project-related effects to subsistence harvesting of fish resources and wild rice.

### 3.2.7 Water-related Land Use Management District (Item 14)

The DNR/USACE received no comments regarding this section.

### 3.2.8 Erosion and Sedimentation (Item 16)

The DNR/USACE received no comments regarding this section.

### 3.2.9 Geologic Hazards and Soil Conditions (Item 19)

The DNR/USACE received no comments regarding this section.

#### 3.2.10 Solid Wastes, Hazardous Wastes, Storage Tanks (Item 20)

The DNR/USACE received no comments regarding this section.

#### 3.2.11 Traffic (Item 21)

**Comment:** Concerns are expressed whether the cumulative effect of operational and construction traffic is adequately addressed. The commenter also noted that shift changes might not be a practical mitigative action to address traffic issues. (Fond du Lac Band)

**Response/Consideration:** The EIS will assess potential cumulative effects upon local traffic patterns that may be associated with the PolyMet and Mesabi Nugget Phase II Projects. Potential interactions from both construction and operation will be considered. Mitigation will be identified if adverse impacts are projected.

**Substantive changes reflecting comments:** Section 3.2.11, Traffic, will be amended to include potential cumulative effects upon local traffic patterns associated with the construction/operation of the proposed project in conjunction with the PolyMet Project. Mitigation will be identified for any adverse impacts. See Sections 3.2.11.1 and 3.2.11.2.

#### 3.2.12 Odors, Dust, and Noise (Item 24)

The DNR/USACE received no comments regarding this section.

#### 3.2.13 Historical Resources (Item 25)

The DNR/USACE received no comments regarding this section.

#### 3.2.14 (Visual Impacts (Item 26)

##### 3.2.14.1 Project-Specific Analysis

**Comment:** The SEAW notes that any plume that is visible would come from the [Phase I] Nugget Plant. Will any visibility analysis be performed? (Fond du Lac Band)

**Response/Consideration:** The visible plume from the Mesabi Nugget Phase I Project is already permitted, thus it is exempt from State Environmental Review under Minn. Rules part 4410.4600, subp. 2A. No visibility analysis is proposed.

**Substantive changes reflecting comments:** None.

##### 3.2.14.2 Cumulative Effects Analysis

The DNR/USACE received no comments regarding this section.

#### 3.2.15 Compatibility with Plans and Land Use Regulations (Item 27)

The DNR/USACE received no comments regarding this section.

### 3.2.16 Impact on Infrastructure and Public Services (Item 28)

#### 3.2.16.1 Direct Demand for Infrastructure and Public Services

The DNR/USACE received no comments regarding this section.

#### 3.2.17 Mineral Fibers (Item 30)

**Comment:** Asbestos-like fibers are known to cause digestive-tract cancers in high concentrations; these fibers have been identified as an existing pollutant in the Partridge River. Community effects regarding these fibers should be considered for the community water supplies for Aurora and Hoyt Lakes. (Grand Portage Band)

**Response/consideration:** Comment noted. The project is not expected to be a significant risk factor in the incidence of gastrointestinal cancer that may result from ingestion of asbestos-like fibers from the community water supplies for Aurora and Hoyt Lakes. In addition, available research from both human and animal studies suggests that there is very little, if any, association between exposure to asbestos in drinking water and cancer occurrence. Although the risk of cancer from exposure to high concentrations of asbestos-like fibers appears small, reasonable control measures and monitoring of total amphibole fibers should be conducted wherever warranted as a prudent aspect of public health policy.

**Substantive changes reflecting comments:** None.

#### 3.2.18 Mineland Reclamation (Item 30)

The DNR/USACE received no comments regarding this section.

#### 3.2.19 Climate Change

**Comment:** It is widely accepted among scientists that extreme weather events (such as what used to be considered a 100-year rainfall or severe drought) will occur at more frequent intervals in the future. Climate change needs to be addressed in more detail and factored into all the analyses. (Grand Portage Band)

**Response/consideration:** Comment noted.

**Substantive changes reflecting comments:** Section 3.2.19, Climate Change, will be added to the Final Scoping Decision. The EIS will provide summary information about the issue of global climate change. Hypothesized changes in Minnesota's climate that may be attributable to global climate change will be identified.

3.3 *Potentially significant impacts may result*; additional information beyond what was provided in the EAW will be included in the EIS.

#### 3.3.1 Wildlife Resources (Item 11a)

##### 3.3.1.1 Project-Specific Analysis

**Comment:** Several wildlife species of high cultural and present-day value exist in the project area. In particular, moose and other game/furbearer species, should be addressed specifically. Moose populations are exhibiting a long-term population decline. Mining operations are likely to reduce



available habitat and affect travel corridors. Water, air, and noise pollution coupled with increased road density has negative impacts on boreal species, including moose. (Grand Portage; 1854 Treaty Authority)

**Response/consideration:** Comment noted. The EIS will assess potential project-related effects to wildlife species, including moose and other game/furbearer species. The DNR and USACE will consult with the appropriate Band staff to identify those species, such as moose, fisher, or beaver, having high cultural and present-day value and are known to occur in the project area.

**Substantive changes reflecting comments:** Section 3.3.1.1, Wildlife Resources – Project-Specific Analysis, will be amended to include assessment of project-related effects to wildlife with high cultural and present-day value.

### 3.3.1.2 Cumulative Effects Analysis

The DNR/USACE received no comments regarding this section.

### 3.3.2 State-Federal Listed Species, Rare Plant Communities, and Ecologically Sensitive Resources (Item 11b)

The DNR/USACE received no comments regarding this section.

### 3.3.3 Physical Impacts on Water Resources (Item 12)

#### 3.3.3.1 Project-Specific Analysis

**Comment:** The project will result in both direct and indirect wetland impacts. Indirect effects can result from: pit dewatering; partial filling and excavation; and changes in stream flow, pit water levels, and lake water levels. (Fond du Lac Band)

**Response/consideration:** The EIS will assess both direct and indirect project-related effects to wetland resources that are typically associated with mining-related activity, including those listed in the comments.

**Substantive changes reflecting comments:** None.

**Comment:** Preference for identification of mitigation opportunities should be placed on the 1854 ceded territory as well as those at the project site, and within the St. Louis River Watershed. (1854 Treaty Authority)

**Response/consideration:** The preferences noted in the comment will be considered in the overall mitigation program as well as the detailed mitigation plan (i.e., for the first five years) and conceptual mitigation plan(s) (for the balance of the project).

**Substantive changes reflecting comments:** None.

**Comment:** Mitigation for wetland impacts should include smaller, clustered sites. (Fond du Lac Band)

**Response/consideration:** Consideration of smaller, clustered sites will be an element of mitigation for project-related wetland effects.

**Substantive changes reflecting comments:** None.

**Comment:** Evaluation of wetland impacts should include consideration of wetland functions and values. (USEPA)

**Response/consideration:** The EIS will consider wetland functions and values in the impact assessment.

**Substantive changes reflecting comments:** None.

**Comment:** The Eggers and Reed System (1997) or the Cowardian Classification System, should be used instead of the Circular 39 wetlands classification system. (USEPA)

**Response/consideration:** The EIS will rely on the Eggers and Reed System for wetland classification.

**Substantive changes reflecting comments:** None.

**Comment:** The evaluation of cumulative effects to wetland resources should include consideration of impacts from current and future projects. (USEPA)

**Response/consideration:** Cumulative effects analysis requires consideration of present and future projects. Scoping EAW Item 30 lists past, present, and foreseeable future actions that could result in cumulative effects to natural resources, including wetlands. This list will be reviewed during EIS preparation to ensure that the appropriate list of relevant actions is considered in the assessment.

**Substantive changes reflecting comments:** None.

### 3.3.3.2 Cumulative Effects Analysis

**Comment:** The EIS should consider possible changes in other topical areas, such as water quality and the distribution of plants/wildlife, as a function of project-specific and cumulative effects to wetlands. (USEPA)

**Response/consideration:** The EIS will consider how changes to wetland resources, both project-specific and cumulative, can affect other areas of potential cumulative effects proposed for study. This assessment will be mostly qualitative, although specific estimates will be developed for project-related changes in wetlands cover types.

**Substantive changes reflecting comments:** Section 3.3.3.2, Physical Impacts on Water Resources – Cumulative Effects Analysis, will be amended to note that any cumulative effects to wetland resources be considered in other EIS-related cumulative effects analyses.

### 3.3.4 Water Use (Item 13)

#### 3.3.4.1 Project-Specific Analysis

**Comment:** The EIS should evaluate the potential for water quality impacts due to vibrations from blasting and use of heavy equipment. (USEPA)

**Consideration/Response:** Potential vibration-related impacts to water quality are tied to generation of sediments or suspended solids in area wells, thus reducing potability for human consumption.

Historically, the physical separation (e.g., distance from) of previous operations at the site from known wells minimized any potential effect. Although not expected to be a significant issue, the EIS will conduct a screening-level assessment of potentially affected resources; the assessment will be based on available information. The methodology employed in the Minnesota Steel EIS to assess impacts will be explored for use in the EIS.

**Substantive changes reflecting comments:** Section 3.3.4.1, Water Use – Project Specific Analysis, will be amended to include a screening-level assessment for known wells that may be potentially affected by project-related blasting or machine operation. Mitigation will be identified for any adverse effects.

#### 3.3.4.2 Risk Assessment

The DNR/USACE received no comments regarding this section.

#### 3.3.4.3 Cumulative Effects Analysis

**Comment:** Concern is expressed regarding use of any of PolyMet’s groundwater modeling to assess potential groundwater effects from the Mesabi Nugget Phase II Project. Issues include the historically impacted nature of the old LTV site, nature of pre-mining water quality conditions, and what constitutes the appropriate baseline for assessing potential impacts. (Grand Portage Band)

**Response/consideration:** Comment noted. The assessment of potential groundwater impacts will rely principally on scientifically accepted models tailored to the known hydrogeology of the greater project area, including the project site. Other information, including modeling associated with the development of the PolyMet EIS, will be considered where appropriate. Where necessary, limits of knowledge that bear on the consideration of significant impacts, reasonable alternatives to the proposed action, or potential mitigation for adverse impacts, associated with models developed uniquely (for the EIS) or from other sources will be identified.

Regarding consideration of existing or historic conditions at the project site, the EIS will evaluate a “no build” or “no action” alternative that assesses environmental conditions if the project were not pursued.

**Substantive changes reflecting comments:** None.

#### 3.3.5 Water Quality: Surface Water Runoff (Item 17)

##### 3.3.5.1 Project-Specific Analysis

**Comment:** Colby Lake already exhibits an algal response to nutrient enrichment; the impact of additional loading should be evaluated. (Fond du Lac Band)

**Response/consideration:** Comment noted. The EIS is scoped to assess project-related changes to the water quality of Colby Lake, which can include potential nutrient contributions.

**Substantive changes reflecting comments:** None.

##### 3.3.5.2 Cumulative Effects Analysis

The DNR/USACE received no comments regarding this section.

#### 3.3.6 Wastewaters (Item 18)

### 3.3.6.1 Project-Specific Analysis

**Comment:** Project-related groundwater and surface water effects related to wastewater discharges are expected to be a major issue of study in the EIS. Any analysis should be comprehensive and recognize that the activity is likely to result in increased concentrations of many dissolved constituents (calcium, chloride, sodium, sulfate) with consequential increases in total hardness. Potential increases in dissolved metals (nickel, zinc, mercury, molybdenum) must be fully examined. (Grand Portage Band)

**Response/consideration:** Comment noted. The EIS is scoped to investigate these issues.

**Substantive changes reflecting comments:** None.

### 3.3.6.2 Cumulative Effects Analysis

**Comment:** The EIS is scoped to assess the cumulative effects of the project to the Partridge River Watershed. Several commenters noted the appropriateness of this assessment to the St. Louis River Watershed, including noting that no explanation was provided for limiting the assessment to the Partridge River Watershed only. Issues supporting inclusion of the entire St. Louis River basin include: multiple projects already present; new and expanded discharges in the future; federally approved water quality standards for the St. Louis River where it flows through the Fond du Lac Indian Reservation; and potential impacts to usufructuary rights. (Grand Portage Band; USEPA; Fond du Lac Band)

**Response/consideration:** Comment noted. The proposed assessment will not only include existing sources, but will be expanded to include those “larger” proposed discharges in the St. Louis River Watershed. In other words, the primary focus will be to evaluate the few large proposed discharges and not pursue all other smaller, more inconsequential, potential discharges. MPCA will be consulted in determining those projects that satisfy the intent of the comment.

**Substantive changes reflecting comments:** Section 3.3.6.2, Wastewaters – Cumulative Effects Analysis, is amended to expand the assessment of cumulative effects to include larger proposed discharges in the St. Louis River Watershed. The DNR and USACE will consult with MPCA on what projects should be considered in the analysis.

### 3.3.7 Stationary Source Emissions (Item 23)

#### 3.3.7.1 Project-Specific Analysis

**Comment:** The Class I impact analysis does not include Isle Royale National Park. It should be included in the evaluation. (1854 Treaty Authority; Fond du Lac Band)

**Response/consideration:** Comment noted. The EIS will include Isle Royale National Park in the Class I impact analysis.

**Substantive changes reflecting comments:** Section 3.3.7.1, Stationary Source Emissions – Project-Specific Analysis, will be amended to note the Class I analysis area includes: Voyageurs N.P.; BWCAW; and Isle Royale N.P.

**Comment:** Is it correct that emissions from Phase I will be added to the proposed emissions from Phase II for purposes of conducting air quality analysis? (Fond du Lac Band)

**Response/consideration:** This is the correct understanding for this project. While the Phase II Project will be issued a separate air permit, the PSD air quality analysis should treat the site as a single stationary source. The analysis will examine Phase I and II emissions combined as well as Phase II emissions alone.

**Substantive changes reflecting comments:** None.

**Comment:** The Scoping EAW does not mention analyzing impacts on Air Quality Related Values (AQRVs) at Class I areas. (Fond du Lac Band)

**Response/consideration:** The comment correctly notes that AQRVs are not cited as part of the analysis. Although not explicitly noted, the EIS will contain the required analyses of AQRVs in Class I Areas, including: visibility; acid deposition; and mercury.

**Substantive changes reflecting comments:** None.

**Comment:** Regarding diesel fuel, would the project comply early with clean-fuel regulations, like Minnesota Steel? (Fond du Lac Band)

**Response/consideration:** Specific fuel types have yet to be identified. Specific fuels and emissions rates will be identified as required analyses are completed for the EIS and permitting respectively. Specific requirements will depend on the results of the Class I and II air quality analyses and whether additional controls are needed on the mobile sources. If additional controls are indeed warranted, the proposer would consider all feasible approaches including clean fuels.

**Substantive changes reflecting comments:** None.

**Comment:** The 1854 Treaty Authority would also advise that mobile sources are included in the analysis of hazardous air pollutants (HAPs) along with fugitive and point source emissions. (1854 Treaty Authority)

**Response/consideration:** Mobile sources will be included in the HAPs evaluation.

**Substantive changes reflecting comments:** None.

**Comment:** It is recommended that a HAPs inventory be included in the EIS as opposed to the air permit application. (1854 Treaty Authority)

**Response/consideration:** The HAPs inventory will be reported in the EIS. The level of detail reported will be determined with input provided by the third-party consultant.

**Substantive changes reflecting comments:** None.

**Comment:** The Class II increment analysis for PolyMet showed that increment in the area has nearly been consumed. Concern was expressed on the proposed project's increment analysis, in that it could be the project that tips the scales. (Fond du Lac Band)

**Response/consideration:** Comment noted. Areas of predicted maximum increment consumption attributed to PolyMet are very localized and near the facility "fenceline." MPCA has informed the DNR and USACE that similar results are expected for the Mesabi Nugget Phase II Project's increment modeling. Significant overlap is not expected for these maximum areas of predicted impact. If there are

predicted exceedences of the PSD increment, mechanisms are available to address the issue in permitting.

**Substantive changes reflecting comments:** None.

### 3.3.7.2 Risk Assessment

The DNR/USACE received no comments on this section.

### 3.3.7.3 Cumulative Effects Analysis

**Comment:** The Inventory of Potential Cumulative Effects (SEAW, page 102) should include Class I and II increment analyses, appropriate AQRV analyses, and the relationship of cumulative sulfur deposition to mercury methylation. The issue of AQRV analyses also arises in Section 3.3.7.1 in the DSDD. (Fond du Lac Band)

**Response/consideration:** The Class I and II analyses are by definition cumulative in nature; the AQRV analysis is also by definition a cumulative assessment. This is because they include all changes since the major and minor baseline dates. Because Phase I modeled impacts of PM10 were over the Significant Impact Levels (SILs), a PM10 increment analysis will be conducted as part of the EIS. Depending on the modeled impacts of SO<sub>2</sub>, an SO<sub>2</sub> increment analysis will be conducted if impacts are over the SIL.

Airborne sulfur deposition will be estimated and reported as part of the Class I analysis. Sulfur generation however is expected to be low because: 1) two proposed additional rotary hearth kilns have been dropped from the project; 2) ultra low-sulfur diesel is proposed for use in mine trucks; and 3) other potential sources are minimal. Thus the potential for mercury methylation resulting from airborne sources also appears low.

Consistent with the comment, mercury methylation is an issue to be considered in the EIS as a function of project-related discharges of sulfate to natural waters. It is reasonable for the EIS to evaluate the probable effect of the project's sulfur emissions on water quality, in addition to water-based emissions of sulfate.

**Substantive changes reflecting comments:** Section 3.3.7.3, Stationary Source Air Emissions – Cumulative Effects Analysis, will be amended to note the Class I and II increment analyses will be conducted to address cumulative effects; AQRVs will also be noted.

Section 3.3.6.2, Wastewaters – Cumulative Effects Analysis, will be amended to include an evaluation of the probable effects of the project's sulfur emissions on water quality.

**Comment:** How will emissions, as evaluated in the Class I visibility analysis, be considered in the MPCA's Northern Minnesota Regional Haze Plan? How will these emissions affect the Reasonable Progress Goal and overall NO<sub>x</sub> budget for Northern Minnesota? (Fond du Lac Band)

**Response/consideration:** The comment correctly notes the EIS will include analysis of potential project-related effects on Class I areas in Minnesota. Minnesota's Regional Haze State Implementation Plan has not yet been finalized. As the MPCA makes progress on the SIP and completes analyses at required check-in points, the effects of Mesabi Nugget Phase II, and other projects, will be included.

MPCA's proposed Reasonable Progress Goal for newly constructed sources includes the following statement:

“In terms of the construction of new major sources, the visibility impacts of such sources will continue to be managed in conformance with existing requirements pertaining to New Source Review and Prevention of Significant Deterioration, for which Minnesota operates a delegated PSD program. This involves analysis of visibility impacts and consultation with FLMs [Federal Land Managers] in determining if a new major source or major modification is installing Best Available Control Technology (BACT) and if it has an adverse impact on visibility at the Class I areas.” See Minnesota DRAFT Regional Haze SIP. Chapter 10 Reasonable Progress Goals and Long Term Strategy.

Thus, the BACT and Class I visibility analyses conducted for this project will meet the MPCA's draft reasonable progress goal.

Regarding nitrogen oxides (e.g., NO<sub>x</sub>), the NO<sub>x</sub> budget for Northern Minnesota includes 485,000 tpy NO<sub>x</sub>, of which 103,084 tpy are non-road vehicles. The proposed project includes 236 tpy NO<sub>x</sub>, which is less than 0.2% of the non-road inventory and less than 0.05% of the total NO<sub>x</sub> inventory.

As noted in the Draft Scoping Decision Document, the assessment of cumulative air emissions effects will reflect NAAQS and PSD increment analyses. These are considered cumulative because they include relevant nearby emission sources. The EIS will also be supported by information generated during development of the proposed Regional Haze SIP.

**Substantive changes reflecting comments:** None.

**Comment:** The EIS should consider cumulative impacts to air quality from all past, present, and reasonably foreseeable future actions. The SEAW and DSDD are not clear that this will occur for the many projects that are proposed for the Iron Range area, including those in some stage of environmental review. (USEPA)

**Response/consideration:** Comment noted. SEAW Item 30 provides a comprehensive list of past, present, and reasonably foreseeable future actions that will be considered in the EIS's cumulative effects analysis for air resources.

**Substantive changes reflecting comments:** None.

### 3.4 Socioeconomic Effects (Item 28)

#### 3.4.1 Economic Effects

**Comment:** Tribal communities will be disproportionately impacted if treaty resources are impaired. Natural and cultural resources are inseparable in traditional Native American culture, distinguishing tribal communities from other environmental justice communities. Economic effects of nearby Indian Reservations, including Grand Portage, Fond du Lac, and Bois Forte, and associated communities, should be addressed individually. (Grand Portage Band)

**Response/consideration:** Comment noted. The respective tribal communities will be consulted over the course of the assessment. Implications for treaty-related rights to hunt and fish will be identified where appropriate.

**Substantive changes reflecting comments:** Section 3.4.1, Socioeconomic Effects – Economic Effects, will be amended to include assessment of potential economic effects, including treaty rights, upon tribal communities. The assessment will be specifically targeted to the Grand Portage, Fond du Lac, and Bois Forte Reservations.

#### 3.4.2 Demographic Effects

**Comment:** Demographic effects on Tribes and treaty rights should be evaluated. (1854 Treaty Authority)

**Response/consideration:** The respective tribal communities will be consulted over the course of the assessment. Implications for treaty rights will be identified where appropriate.

**Substantive changes reflecting comments:** Section 3.4.2, Socioeconomic Effects – Demographic Effects, will be amended to include assessment of potential demographic effects, including access for treaty-related rights to hunt and fish, upon tribal communities. The assessment will be specifically targeted to the Grand Portage, Fond du Lac, and the Bois Forte Reservations.

#### 3.4.3 Community Impacts

**Comment:** Effects on the exercise of treaty rights (access, game species, fish, water resources, cultural resources, etc.) should be clearly identified. (1854 Treaty Authority)

**Response/consideration:** The EIS will provide an assessment of project-related effects upon traditional hunting and gathering practices afforded under the 1854 Treaty. This will likely be accomplished qualitatively by extrapolating project-related effects to targeted resources. Because the project does not involve public lands, any effects are expected to be indirect. The respective tribal communities will be consulted over the course of the assessment.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Impacts, will be amended to include assessment of potential impacts to traditional hunting and gathering practices.

**Comment:** The EIS should have a comprehensive analysis of cumulative impacts to treaty protected natural and cultural resources. The 1854 Ceded Territories should be treated as a discrete area of impact. Critical habitat, habitat segmentation, environmental mitigation measures, and changes in plant cover or forest type all fall under both the categories of traditional environmental and cultural analysis; as such the 1854 Ceded Territories should be treated as a discrete area of impact. Implications for usufructuary rights should be assessed. (Grand Portage Band)

**Response/consideration:** The agencies disagree with the recommendation that such an analysis be applied to the 1854 Ceded Territories as a discrete assessment unit for all impact areas. This is because the potentially affected areas will likely vary across the resource base, which may or may not align with the “political” boundary defined by the treaty. For example, an issue like potential effects to air quality will consider relatively large areas to assess cumulative effects. Other resources, such as impacts to wetlands, would likely involve smaller areas of potential environmental effect. It is certainly expected however that some areas of impact will overlap the boundary of the 1854 Ceded Territories.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Effects, will be amended to include assessment of potential impacts to traditional hunting and gathering practices.



**Comment:** The EIS should discuss the relationship of mining activities with the potential impacts to tribal resources for hunting, fishing, and gathering under the 1854 Treaty. We recommend the EIS identify all relevant tribal resources and uses or assess potential impacts to those uses. Possible uses include harvesting wild rice, medicinal wetland plants, and plants used for basket-making (e.g., reeds, willow, birch), as well as hunting and trapping wildlife such as fishers and beaver. The analysis should include potential changes in tribal access to areas where these activities take place and connectivity between these areas. There may be other cultural uses in the area as well, which could be affected by noise. Project-related changes to water quality, air quality, or noise level, for example, could potentially affect other resources or uses that are important to the tribes. (USEPA)

**Response/consideration:** Comment noted. This guidance will be provided to the EIS contractor as part of the EIS-related assessments. The respective tribal communities will be consulted over the course of the assessment.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Impacts, will be amended to include assessment of potential impacts to treaty rights as articulated in the comment.

**Comment:** If there are serious vegetation effects, from any aspect of the proposed mining activities, on culturally-significant plants like wild rice, birch, wild blueberries, cedar, maple, sweetgrass, and others, that must be considered and the Band[s] must be consulted regarding mitigation. (Grand Portage Band)

**Response/consideration:** Comment noted. This guidance will be provided to the EIS contractor as part of the EIS-related assessments. The respective tribal communities will be consulted over the course of the assessment.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Impacts, will be amended to include assessment of potential effects to culturally-significant plants as articulated in the comment.

**Comment:** The EIS should describe the cumulative impacts to tribal resources (as noted in the previous comment). This may entail discussing impacts from the proposed project in context with other past, present, and foreseeable future projects that affect tribal rights over an area that is relevant to the uses being studied, not just the project area or watershed. This comment may be relevant to recommendations regarding analysis of cumulative impacts of other resources, such as wetlands and water quality, insofar as those resources may be used by tribe members under the 1854 Treaty. (USEPA)

**Response/consideration:** Comment noted. Guidance will be provided to the EIS contractor as part of the EIS-related assessments. The respective tribal communities will be consulted over the course of the assessment. The assessment will rely on the Final Protocol to Assess Expanded Cumulative Impacts on Native Americans, (USEPA, 2007).

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Impacts, will be amended to include assessment of potential cumulative effects to treaty rights as articulated in the comment.

**Comment:** The Project site may contain Traditional Cultural Properties (TCPs) within the meaning of the National Historic Preservation Act (NHPA). The National Register of Historic Places defines this as “one that is eligible for inclusion in the National Register because of its association with cultural practices or

beliefs of a living community that (a) are rooted in that community's history and (b) are important in maintaining the continuing cultural identity of the community." An appropriate investigation of the Project site using this standard, and in cooperation with all involved Tribal Historic Preservation Officers, must be performed and properly documented. (Grand Portage Band)

Has there been any effort to identify TCPs in the project area? These features are a great concern for the 1854 Treaty Authority. An active program of identification is needed before the project can proceed. (1854 Treaty Authority)

**Response/consideration:** Comment noted. This guidance will be provided to the EIS contractor as part of the EIS-related assessments.

Regarding efforts to assess potential TCPs in the project area, none have been undertaken to date. The respective tribal communities will be consulted over the course of the assessment.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Effects, will be amended to include assessment of potential effects to TCPs as articulated in the comment.

**Comment:** The historical, architectural, and archaeological resources are adequately addressed in the document. A reasonable effort has been expended to locate these resources. I concur that both the remaining railroad segments and historic roadways should be evaluated before the project moves forward. (1854 Treaty Authority)

**Response/consideration:** Comment noted.

**Substantive changes reflecting comments:** None.

**Comment:** The SEAW does not include effects to treaty-protected resources or tribal access to those resources in the context of cumulative effects. For resources that are integral to traditional tribal lifeways (wild rice, moose, fish, medicinal plants, blueberries, birch bark, for example), the "project impact zone" should be determined from a perspective that includes sufficient habitat quality and quantity to support those resources, and tribal members' ability to access them. (Fond du Lac Band)

**Response/consideration:** The project is not expected to result in direct impacts (e.g., construction; mine operations; reclamation) to resources important to the tribes or tribal access to those resources. Indirect effects are however possible. The EIS will identify resources important to the tribes and provide a qualitative assessment of impacts. The respective tribal communities will be consulted over the course of the assessment, including identifying resources that are integral to traditional tribal lifeways as noted in the comment.

**Substantive changes reflecting comments:** Section 3.4.3, Socioeconomic Effects – Community Effects, will be amended to include assessment of potential cumulative effects to resources important to the tribes as articulated in the comment.

**Comment:** Impacts to subsistence resources are not adequately or directly addressed in the twelve areas of cumulative impacts. Treaty protected resources should be included in the assessment of the specified areas of cumulative effects analysis. (Fond du Lac Band)

**Response/consideration:** Resources important to the tribes will be included in the assessment of the specified areas in the cumulative effects analysis. The method of reporting will be determined with input provided by the third-party consultant.

Substantive changes reflecting comments: Section 3.4.2.2.2, Cultural Resources – Cumulative Effects Analysis, will note the need to assess cumulative effects to resources important to the tribes in the 12 other areas of cumulative effects examined in the EIS.

#### 4.0 IDENTIFICATION OF PHASED OR CONNECTED ACTIONS

**Comment:** The SEAW references a natural gas pipeline for Phase I. Will any analysis be done for this pipeline? (Fond du Lac Band)

**Response/consideration:** The natural gas pipeline from the Mesabi Nugget Phase I Project is already permitted, thus it is exempt from State Environmental Review under Minn. Rules part 4410.4600, subp. 2A. No pipeline analysis is proposed.

**Substantive changes reflecting comments:** None.

#### 5.0 SCHEDULE

The DNR/USACE received no comments on this section.

#### 6.0 SPECIAL STUDIES OR RESEARCH

The DNR/USACE received no comments on this section.

#### 7.0 GOVERNMENTAL PERMITS AND APPROVALS

The DNR/USACE received no comments on this section.

#### MISCELLANEOUS COMMENTS

**Comment:** The Forest Service should not consider selling land to a mining company. This is contrary to sustaining healthy ecosystems. (Lac Vieux Desert Band)

**Response/consideration:** The project does not involve any land sales with the U.S. Forest Service.

**Substantive changes reflecting comment:** None.

**Comment:** Tribes were not included in drafting the SEAW or DSDD. One of the reasons for this is that potentially affected tribes were not informed of the scoping process by the Corps prior to drafting the SEAW or DSDD, despite the mandate to do so. Therefore, sections relating to tribes are notably deficient. (Grand Portage Band)

**Response/consideration:** Comment noted. The USACE issued a public notice regarding scoping on August 11, 2008. Copies of the public notice were mailed to potentially affected tribes. Information and perspectives provided in cooperator comments have been considered and incorporated into the scoping decision where advised.

**Substantive changes reflecting comment:** None.

Comment: The Minnesota Steel Plan should be considered an Existing Private Action for purposes of the cumulative effects analysis.

Response/consideration: The EIS will consider the Minnesota Steel project as an existing private action.

Substantive changes reflecting comment: None.