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### **MINNESOTA LAWYER HONORS WATERLEGACY COUNSEL PAULA MACCABEE AMONG 2023 ATTORNEYS OF THE YEAR**

*Award-Winning Case Exposed MPCA Irregular Procedures, Reversed PolyMet Mine Water Permit*

**ST. PAUL, MINN., December 21, 2023** – *Minnesota Lawyer* has selected WaterLegacy Counsel Paula Maccabee and others on the team of lawyers who reversed the water pollution permit issued for the PolyMet copper-nickel mine among its 2023 “Attorneys of the Year” in the category of *pro bono* legal services. The award recognizes Maccabee’s work on behalf of environmental non-profit WaterLegacy and the work of lawyers for other environmental groups who collaborated to secure this precedent-setting victory at the Minnesota Supreme Court to protect clean water and regulatory accountability.

In August 2023, the Court determined that the Minnesota Pollution Control Agency’s (MPCA) issuance of the PolyMet copper-nickel mine water pollution permit was “arbitrary and capricious” due to the MPCA’s irregular procedures. The Court detailed efforts made by Maccabee on behalf of WaterLegacy, including filing Freedom of Information Act lawsuits, to expose MPCA’s improper efforts to hide the U.S. Environmental Protection Agency’s (EPA) warnings. EPA hidden warnings were similar to comments by WaterLegacy, the Fond du Lac Band of Lake Superior Chippewa, and allied groups that the PolyMet water permit would violate the Clean Water Act, Minnesota water quality standards, and tribal standards, endangering both aquatic life and human health.

The PolyMet water permit decision was the first time in history that a Minnesota court found that a state agency had engaged in irregular procedures. The Minnesota Supreme Court sharply rebuked the MPCA for failure to “genuinely engage in reasoned decision-making.” A majority of the Court underscored that agencies had sought to “hide the risk of illegal water pollution from the public” and that this “secrecy is unacceptable.”

“It’s an honor to be recognized by *Minnesota Lawyer* in collaboration with such an excellent team of lawyers,” said Maccabee. “Our historic legal victory will ensure that Minnesota cleans up its regulatory process even as we protect our life-giving waters. Already, other lawyers and other courts are relying on the Minnesota Supreme Court’s PolyMet water permit decision to reject government secrecy in favor of law and science.”

“All of us owe a debt to the EPA whistleblowers and retirees who risked their careers to stand up to political pressure,” continued Maccabee. “We need to pay this debt forward by redoubling pressure on our elected officials and our agencies to protect nature and people, rather than to coddle polluters.”

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### **About Paula Maccabee**

Paula Maccabee graduated from Yale Law School in 1981 and has spent the past 42 years in public interest law and policy. She worked with Robins, Zelle, Larson & Kaplan on the Dalkon Shield cases and served as a Special Assistant Attorney General and on the St. Paul City Council before starting her public interest law practice as Just Change Law Offices. For the past 14 years, Maccabee has served as the Counsel and Advocacy Director for WaterLegacy, devoting more than 80 percent of her time as *pro bono* work. Information about WaterLegacy can be found on its [website](#).

### **About the Award**

*Minnesota Lawyer's* annual “Attorneys of the Year” award, which will be presented this year on February 8, 2024, celebrates the work of accomplished attorneys across Minnesota, including those who have procured successful results, established a new legal precedent, and performed a significant public service. This year’s *pro bono* award will be presented to attorneys at Maslon and Minnesota Center for Environmental Advocacy who represented allied environmental groups in the PolyMet water permit case, as well as to Paula Maccabee as the attorney for WaterLegacy.

### **Case Background**

The PolyMet copper-nickel sulfide mine was proposed in the headwaters of the St. Louis River, upstream of the Fond du Lac Reservation, the City of Duluth, and Lake Superior. Sulfide ore mining in water-rich environments—like the location of the proposed PolyMet mine—has a 100% track record of failure to protect waters from pollution. PolyMet’s water pollution permit was issued in December 2018. On appeal, the case was transferred to district court for a hearing on whether the MPCA had used irregular procedures to issue the PolyMet permit. The Minnesota Supreme Court’s decision was based on facts found by the district court and the high Court’s rulings of law that MPCA’s procedures were “irregular” and prejudiced the petitioners. The Court also ruled that MPCA’s view of water pollution law was not entitled to deference in this case and that MPCA could not reissue a PolyMet water permit until EPA had a new opportunity to comment and MPCA made a written record of its responses to EPA concerns.

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