

JUST CHANGE LAW OFFICES

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November 7, 2025

Grant Wilson, Commissioner's Designee
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155

SENT VIA EMAIL

RE: NorthMet Project Permit to Mine Application, OAH 60-2004-37824

Dear Designee Wilson:

Petitioners have reviewed your Decision to Extend Stay dated October 30, 2025 ("Decision"). We make the following requests concerning the Decision.

First, Petitioners ask for a brief extension of the proposed deadline for their briefing due to the overlap of the briefing schedule with the winter holidays. The holidays will significantly and unavoidably impact Petitioners' ability to prepare their response briefs during two weeks of the briefing schedule. Therefore, Petitioners request that their briefs be due by January 23, 2026.

Second, we request clarification regarding the scope of the briefing requested in the Decision. That clarification is important to ensure that there is no confusion about the scope of these proceedings.

As you have previously acknowledged, your authority under Minnesota statutes and the Commissioner's delegation is limited. When considering, on the merits, whether to accept or reject the ALJ's recommendation in a contested case hearing, the decisionmaker may not take new evidence, consider information not in the hearing record, or remand issues to the Administrative Law Judge (ALJ). *See* Grant Wilson May 9, 2024 Letter at 4-6. As a result, "PolyMet's current application (Version 3.1) remains the application under review in the instant contested case proceeding." *Id.* at 5. The contested case decision-maker may only accept, modify, or reject the ALJ's recommendation or determine that the case must be dismissed because the issues presented are outside his jurisdiction or because, *inter alia*, the case has become moot. *See, e.g.,* Grant Wilson May 9, 2024 Letter at 5, 7; Band Apr. 9, 2024 Letter at 3-4; WaterLegacy Sept. 23, 2024 Letter at 4-5; Conservation Organizations Oct. 10, 2025 Letter at 4-5.¹ Making findings of facts or conclusions of law based on new evidence submitted at this

¹ As Petitioners have explained, DNR cannot accept an "amendment" to a permit to mine application under Minn. R. ch. 6132. *See* Band Oct. 10, 2025 Letter at 2-4, WaterLegacy Oct. 10, 2025 Letter at 5; Conservation Organizations Oct. 10, 2025 Letter at 3. We made those arguments before, and incorporate them by reference here, to preserve them for any potential future proceedings. However, to be clear, the determination of whether DNR can accept an "amended" permit to mine application is not within the scope of this contested case or your

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stage would be highly prejudicial and contrary to the laws governing contested cases, *see* Minn. Stat. §§ 14.57-.62, 93.483 subdvs. 3, 5; Minn. R. 6132.5000.

Accordingly, Petitioners ask that you clarify that the requested briefing cannot include substantive analysis of PolyMet's new proposal or arguments about whether any new proposal PolyMet may submit complies with applicable statutes and regulations governing nonferrous metallic mineral mining, including the reactive mine waste rule, Minn. R. 6132.2200 subpt. 2(B).

Respectfully submitted,

/s/ Paula G. Maccabee
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Counsel for Conservation Organizations including Minnesota Center for Environmental Advocacy, Friends of the Boundary Waters Wilderness, Duluth for Clean Water, Center for Biological Diversity, Friends of the Cloquet Valley State Forest, Save Lake Superior Association, and Save Our Sky Blue Waters

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delegated authority, *see* Minn. Stat. § 93.483 subd. 3(a); OAH Official Record, OAH 60-2004-37824 PolyMet Official Record at pp., 14295-14304, 14345-54, 14964-73.

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