



September 6, 2024

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**Re: Minnesota Department of Natural Resources’ Request to Stay, In the Matter
of the NorthMet Project Permit to Mine Application, OAH 60-2004-37824**

Dear Counsel,

On August 30, 2024, I received the Minnesota Department of Natural Resources’ Reply Brief Regarding ALJ Report. In that brief, the Minnesota Department of Natural Resources’ hearing team (“DNR hearing team”) asserted that PolyMet Mining, Inc. (“PolyMet”), through an August 14, 2024 press release (“August 14th press release”), has indicated it does not intend to construct the tailings basin as set forth in its current permit to mine application. Based upon this press release, DNR requested that this matter be stayed until PolyMet makes a final determination as to whether it will propose changes to the permit to mine application. In doing so, DNR asks me to take judicial notice of the press release, pursuant to Minn. Stat. § 14.60, subp. 4. Pursuant to that provision, all parties shall be notified and afforded an opportunity to contest the facts.

This is not the first time a party has requested that I stay the current contested case proceedings. On May 9, 2024, I issued a detailed decision letter (“May 9th Decision”) responding to the Fond du Lac Band of Lake Superior Chippewa’s (the “Band”) request that this matter be vacated or stayed, and requests by DNR’s hearing team, WaterLegacy, and the Conservation Organizations that this matter be stayed or dismissed. In my May 9th Decision, I addressed the Band’s (and other parties’) assertion that PolyMet, through a February 14th email from its Tribal Relations Advisor to the Band and other tribes (“February 14th email”), indicated an intent to abandon the design for the flotation tailings basin as set forth in its permit to mine application. My May 9th Decision sets the contours for whether and how “evidence” may be presented at the different stages of this contested case proceeding and what showing would be required to “stay” the instant proceedings.

In light of my May 9th Decision, and DNR’s request that I take judicial notice of PolyMet’s August 14th press release, each party will be given the opportunity to respond to DNR’s request. Consistent with responses on the previous request for a stay, these submissions shall be no longer than five (5) pages in single spaced, letter format and shall be limited to addressing the following specific questions:

- I. Whether I may take judicial notice of the August 14th press release;
- II. If I may take judicial notice of the August 14th press release, whether this press release presents information that is materially different from the February 14th email addressed in my May 9th Decision such that a stay of the current briefing schedule would now be justified; and
- III. Assuming I may take judicial notice of the August 14th press release and issue a stay of these proceedings, how long should the stay last and what event(s) would warrant a lifting of the stay.

Based upon the foregoing, I issue the following:

1. All deadlines to submit written exceptions and arguments described in my letter dated June 20, 2024 are **temporarily stayed** pending the resolution of DNR’s latest stay request;
2. PolyMet shall submit a written response as set forth above on or before **September 16, 2024 at 4:30 p.m. CT.**
3. WaterLegacy, the Band, and the 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) shall submit written responses as set forth above on or before **September 23, 2024 at 4:30 p.m. CT.**
4. The DNR’s hearing team shall submit a written reply brief as set forth above on or before **September 30, 2024 at 4:30 p.m. CT.**

I will issue a decision on the DNR’s requests shortly after the September 30th deadline. I will thereafter provide a new schedule for the remaining written exceptions, if appropriate.

Sincerely,

Grant L. Wilson  Digitally signed by Grant L. Wilson
Date: 2024.09.06 14:48:19 -05'00'

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Central Region Director

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Attached: *August 14, 2024 Press Release*