

U.S. Army Corps revokes key NorthMet copper nickel mining permit

Dan Kraker Duluth June 6, 2023 5:42 PM

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The Army Corps has sided with the EPA, which says that mercury discharged by the mine and released by wetlands impacted by construction of the mine would violate the Fond du Lac Band's water quality standards. Mark Sauer | AP

The U.S. Army Corps of Engineers has revoked a key permit for the proposed NorthMet copper-nickel mine in northeastern Minnesota, formerly known as the PolyMet project.

The Army Corps rescinded the permit, known as the Clean Water Act "Section 404" wetlands permit, because the agency said the permit could not "ensure compliance with the applicable downstream water quality requirements" of the Fond du Lac Band of Lake Superior Chippewa, whose reservation lies downstream from the proposed mine on the St. Louis River.

The decision does not deal a fatal blow to the project. NewRange Copper Nickel, a new joint venture between PolyMet and Teck that now controls the deposit, can submit a new application for a wetlands permit. The company could also challenge the decision in federal court.

But it's a significant setback for NewRange, which is seeking to build the \$1 billion project in northeastern Minnesota.

Just last week the company announced an \$18 million project to begin salvaging and recycling scrap metal and concrete at the former LTV Steel processing plant near Hoyt Lakes, which it plans to use as a new processing facility for the mine.

But the wetlands permit is one of several key approvals that NewRange needs before it began actual construction of the NorthMet mine that have now either been revoked, or put on hold due to ongoing litigation and regulatory work.

'A potential game-changer'

"This is by far the most consequential reversal that PolyMet has experienced to date. And this is really a potential game changer," said Paula Maccabee, attorney and advocacy director for the environmental group WaterLegacy.

For years Maccabee has [advocated for recognition of the right of downstream tribes](#) to object to federal permits.

The decision comes a little more than a year after the U.S. Environmental Protection Agency recommended against reissuing the permit to PolyMet, saying the project risked increasing levels of mercury and other pollutants in the St. Louis River downstream from the proposed mine.

That recommendation came during a historic public hearing on the Fond du Lac reservation the first time a sovereign American Indian tribe had used its authority under the Clean Water Act as a "downstream state" to challenge a federal permit to protect its lands and waters.

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<https://www.mprnews.org/story/2023/06/06/us-army-corps-revokes-key-northmet-copper-nickel-mining-permit>



Attorney Paula Maccabee of Just Change Law argues for the opponents during an evidentiary hearing regarding “procedural irregularities” in the PolyMet permit case held at Ramsey County District Court in St. Paul.
Leila Navidi | Star Tribune 2020



The Fond du Lac Band said the Corps’ decision protects the Band’s downstream waters. Steve Kuchera | Duluth News Tribune 2017

Approvals needed

The 404 wetlands permit is one of several key approvals that PolyMet needs to begin construction on what would be the state’s first mine for copper, nickel, and precious metals.

It’s a type of mining with the potential to cause more severe water pollution than the state’s iron ore mining industry.

Yet it also offers the tantalizing promise to create hundreds of high-paying jobs and provide the metals that mining advocates argue are needed to manufacture electric vehicle batteries and other technologies needed to transition to a carbon-free economy.

The permit allows PolyMet to fill nearly 1,000 acres of wetlands at its proposed mine site with dredged material, something mine opponents have described as the largest permitted destruction of wetlands in the state’s history.

PolyMet first secured its wetlands permit in early 2019. But the Army Corps suspended the permit in 2021 after the Fond du Lac Band sued, arguing that the EPA had failed to notify the Band that the mining project may affect its downstream waters, something required under the Clean Water Act.

Now, the Army Corps has sided with the EPA, which says that mercury discharged by the mine and released by wetlands impacted by construction of the mine would violate the Fond du Lac Band’s water quality standards.

Mercury in the St. Louis River already exceeds the Band’s water quality standards, which are more stringent than the state. Band members rely on fish from the river for subsistence and cultural practices, but consumption advisories limit the amount of fish that can be safely eaten.

“The Corps’ decision is one that requires careful review, determined action, and further engagement with regulators and all key stakeholders,” NewRange Copper Nickel said in a statement.

The company added it’s “reviewing all of our options as we chart a course forward for the development of the NorthMet Project in a safe and environmentally responsible manner that considers NewRange’s communities of interest.”

NewRange also argues the project would reduce mercury and sulfate pollution in the St. Louis River basin by installing water treatment and management systems at an old iron ore mining waste tailings basin that it plans to reuse.

“Today’s decision by the U.S. Army Corps of Engineers is reversal of thoroughly reviewed water quality data that has been collected and assessed over the last decade,” NewRange said.

In a statement, Minnesota Republican U.S. Rep. Pete Stauber, said “The Biden Administration continues their assault on northern Minnesota and our way of life. Today’s political decision highlights the need for serious permitting reform to limit frivolous lawsuits and modernize the Clean Water Act permitting process.”

The Fond du Lac Band said the Corps’ decision protects the Band’s downstream waters, adding that the science didn’t support PolyMet’s claims that the NorthMet project would not degrade water quality.

“The Corps’ decision was the right one and upholds the trust responsibility and the treaty promises the United States made to the Band,” said Fond du Lac Chairman Kevin Dupuis.

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