

BUSINESS

Minnesota Supreme Court voids permits for PolyMet project, says MPCA tried to conceal EPA warnings

By **SUMMER BALLENTINE** | Associated Press

PUBLISHED: August 2, 2023 at 5:17 p.m. | UPDATED: August 3, 2023 at 10:10 a.m.

The Minnesota Supreme Court on Wednesday ruled that the state's Pollution Control Agency improperly granted permits to a fiercely contested copper-nickel mine and concealed environmental concerns about the project, which critics say threatens to pollute Lake Superior and harm tribal lands.

The proposed mining project, a 50-50 joint venture with PolyMet Mining and Teck Resources, was renamed NewRange Copper Nickel in February but is still widely known as PolyMet. It seeks to be Minnesota's first copper-nickel mine, but it has long been stalled by court and regulatory setbacks.

The Supreme Court's 6-0 ruling against the MPCA once again derails the long-sought project, directing the state agency to reconsider the permits.

Justices found that state regulators not only ignored concerns from the U.S. Environmental Protection Agency about the northeastern Minnesota mine, but attempted to conceal EPA warnings from the public.

The MPCA "and the EPA sought to avoid public scrutiny and to hide the risk of illegal water pollution from the public eye," Justice Anne McKeig wrote in a concurring opinion. "This secrecy is unacceptable."



In a statement, NewRange said it's "confident that the additional proceedings will confirm the project protects water quality for all, and welcomes working with stakeholders on the permit."

PolyMet has been trying to complete the open-pit mine near Babbitt and processing plant near Hoyt Lakes for more than a decade, despite public criticism and other setbacks.

The U.S. Army Corps of Engineers in June revoked a critical water quality permit for the project. The corps said the permit did not comply with the water quality standards set by the Fond du Lac Band of Lake Superior Chippewa, whose reservation on the St. Louis River is downstream from the mine and processing plant sites.

Environmentalists have opposed the mine for fear it could pollute pristine waters and destroy habitat for gray wolves and Canada lynx. The project would be located near tributaries feeding the St. Louis River, 175 river miles upstream from Lake Superior.

Critics also cite the risks of acid mine drainage and concerns about the safety of the dam for its tailings basin. The vast but untapped reserves of buried copper, nickel and precious metals in northeastern Minnesota are locked up in sulfide minerals that can leach sulfuric acid and other pollutants when exposed to air and water.

The latest setback comes after environmental groups and the Fond du Lac Band sued when the state granted PolyMet mining permits in 2018.

Court discoveries from that lawsuit and open-records requests by Minnesota-based nonprofit WaterLegacy unearthed documents showing that state regulators had pressured the EPA to withhold its concerns about the mine from public comments.

"Whistleblowers, Freedom of Information Act lawsuits, and the district court hearing helped us learn that the MPCA used a corrupt process to keep EPA's criticisms of the PolyMet permit secret," WaterLegacy Advocacy director Paula Maccabee said. "With this Minnesota Supreme Court decision, it becomes more likely that Minnesota agencies will use a fair process that protects people, rather than polluters."

A never-published letter from the EPA stated that the federal agency worried that the permits were not "stringent enough" to comply with the federal Clean Water Act and other federal regulations, according to the Supreme Court ruling.

Still, the MPCA in a press release had said the EPA "had no comments during the period allotted."

"The motivation of the MPCA — avoid public awareness and scrutiny of the EPA's concerns because of the intense public interest in the NorthMet project — is contrary to the express 'purposes of the Administrative Procedure Act' to increase transparency and 'public access to governmental information,'" Justice Barry Anderson wrote in the majority opinion.

The other justices also joined a concurrent opinion written by McKeig that more strongly criticized the MPCA for ignoring and disrespecting the Fond du Lac Band throughout the permitting process.

Cournoyer did not answer an Associated Press emailed question Wednesday about the state agency’s treatment of the Fond du Lac Band.

Tags: [Courts](#), [Minnesota](#), [Minnesota Supreme Court](#)

 Author **Summer Ballentine**

23 Feral Facts About Early Humans We Rather Not Know

YourDIY | Sponsored

NFL Star Rob Gronkowski Loves These Shoes

Former Adidas designer transforms street shoes with hybrid high performance sneaker technology. Industry-leading comfort from shoes zoned to provide comfort, flexibility and stability.

Wolf & Shepherd | Sponsored

Shop Now

Courtney Lopez: What Drinking Bone Broth Did To My Body

DKA | Sponsored

Cast Finally Admits That the Show is Fake

YourDIY | Sponsored

People in St Paul are Loving Martha Stewart’s Meal Kit

Martha Stewart & Marley Spoon | Sponsored

30 Most Overrated Movies Everyone Pretends To Like

YourBump | Sponsored