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ADMINISTRATIVE JUDGE RECOMMENDS DENIAL OF POLYMET PERMIT TO MINE DUE TO UNWORKABLE PLAN FOR REACTIVE TAILINGS WASTE STORAGE *ALJ Finds that Bentonite Plan Does Not Comply with Reactive Mine Waste Rule*

ST. PAUL, MINN., November 28, 2023 – Administrative Law Judge (ALJ) James LaFave recommended today that the PolyMet copper-nickel sulfide ore permit to mine application to the Minnesota Department of Natural Resources (DNR) should be denied. The ALJ found that the bentonite amendment PolyMet proposed to control reactive tailings waste from the mine is not a “practicable and workable” reclamation technique that would satisfy Minnesota’s Reactive Mine Waste Rule.

Specifically, the ALJ concluded that PolyMet’s proposed bentonite amendment “would not help ensure that the tailings are stored in an environment such that they are not reactive” and “would not help ensure that the NorthMet facility permanently prevents substantially all water from moving through or over the tailings.”

Paula Maccabee, Advocacy Director and Counsel for WaterLegacy, stated, “Yet another PolyMet permit has now been found to violate Minnesota statutes and rules intended to protect the environment from pollution. We are pleased that the administrative judge concluded that PolyMet’s application for a permit to mine should be denied due to failure to meet basic legal requirements to control pollution from reactive mine wastes.”

By law, the administrative law judge provides a recommendation, and the Minnesota DNR makes a final decision on whether or not to issue a new PolyMet permit to mine and, if so, under what conditions. Maccabee suggested, “It’s time for the Governor as well as Minnesota’s state agencies to take a hard look at whether it is time to pull the plug on the PolyMet mine project.” She continued, “Glencore, the multinational owner of PolyMet that has been convicted of corruption and bribery, may be used to cutting corners and evading laws to enhance its profits. But this is not the right way to do business in Minnesota.”

Decision Background

The PolyMet permit to mine was issued by the Minnesota DNR on November 1, 2018. WaterLegacy, other environmental groups, and the Fond du Lac Band appealed. The Minnesota Court of Appeals ruled on January 13, 2020 that the DNR was required to hold a contested case hearing, and the Minnesota Supreme Court affirmed in part on April 28, 2021, ruling that the DNR was required to hold a hearing on whether the bentonite amendment proposed by PolyMet to control pollution from tailings waste “is a ‘practical and workable’ reclamation technique that will satisfy the DNR’s Reactive Waste Rule, Minn. R. 6132.2200, subp. 2(B)(2).” The ALJ’s findings, conclusions and recommendation concluded the bentonite amendment failed this test.