

NEWS LOCAL

Tailings dam design could change, NewRange tells tribal nations

The company said it hadn't abandoned earlier plans, the focus of a Minnesota DNR review on whether the mining permit should be denied.



Plans for the NorthMet project include building dams to increase the storage capacity of tailings basins. One would be built in the distance to raise the basin on the right to the level of restored area on the left, shown in 2017, which has been reclaimed. Steve Kuchera / File / Duluth Media Group



By **Jimmy Lovrien**

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 News reporting

HOYT LAKES — The company trying to open Minnesota’s first copper-nickel mine told tribal nations it may consider changing its planned method of storing tailings — waste rock left behind after

removing copper, nickel, cobalt and other metals — as “global standards have changed.”

NewRange Copper Nickel, a joint venture formed between mining companies Glencore and Teck to advance the NorthMet project, has planned to store its mine waste slurry on top of the existing taconite tailings basin at the former Erie Mining Co./LTV Steel Corp. since NewRange’s predecessor, PolyMet, acquired the property near Hoyt Lakes in 2005. Plans call for building higher dam walls to hold back the tailings as more waste is produced.

But an administrative law judge in [November recommended\(https://www.duluthnewstribune.com/news/local/judge-recommends-dnr-deny-northmet-permit-to-mine\)](https://www.duluthnewstribune.com/news/local/judge-recommends-dnr-deny-northmet-permit-to-mine) the Minnesota Department of Natural Resources deny the project’s permit to mine because the tailings storage plan was not “practical” or “workable.”

In a Feb. 14 email the News Tribune obtained via public records request from the DNR, NewRange tribal relations adviser Jenna Lehti told tribal officials and environmental staff at the Fond du Lac, Grand Portage and Bois Forte bands that the company is “potentially looking at changing” the tailings management facility. She acknowledged that “global standards have changed” since its initial design.

“We went through an internal process to identify needs and potential improvements, and at this point think there is a good chance we will propose some changes,” Lehti said.

Lehti said in the email that nothing had been determined yet.

“We think this provides a great opportunity for us to work together to ensure we are listening to concerns you have raised, including safety and protection of water quality, brownfield cleanup, location, etc.,” Lehti said. “Everything is on the table and we’re hoping for early input from you.”



Brad Moore, then PolyMet's executive vice president of environmental and governmental affairs, looks out from the top of a tailings basin dam built when LTV mined taconite near Hoyt Lakes in 2017. Steve Kuchera / File / Duluth Media Group

Attorneys for Fond du Lac included the email in a March 11 filing to Grant Wilson, the DNR's central region director tasked with deciding on the permit to mine in light of the administrative law judge's opinion.

The Fond du Lac Band argued that if the company could not confirm that it still plans to use bentonite clay in the tailings basin, then the DNR should deny the mining permit and require the company to file a new permit application



NewRange plans to line the basin with bentonite, which swells when wet, to prevent oxygen from contacting the tailings and creating acid, the type of pollution environmentalists fear most with copper-nickel mining. Bentonite would also be mixed in with the tailings. ”

The administrative law judge said the method did **not meet state law**([https://www.revisor.mn.gov/rules/6132.2200/#:~:text=\(1\)%20modify,and%20state%20standards](https://www.revisor.mn.gov/rules/6132.2200/#:~:text=(1)%20modify,and%20state%20standards)) because it would not make the slurry of crushed-up waste rock nonreactive and wouldn't prevent water from flowing over or through the waste upon closure.

In response to the Fond du Lac Band, Jay Johnson, an attorney for NewRange, said in a March 26 filing that it had not abandoned the bentonite plan and clarified that the “email does not say that the

design of the tailings basin will change; it says that NewRange is ‘potentially looking at changing’ the design.”

Johnson urged Wilson to move forward with a final decision.

If any design changes are made, Johnson said the company “would go through the appropriate permit amendment process.”

“Whether NewRange ultimately proposes any changes to the tailings basin design will depend on the outcome of a thorough technical review that is still in its infancy,” Johnson said. “That review may recommend no changes to the basin at all. Or it may recommend changes that are irrelevant to the issues in the contested case hearing.

“It is impossible to know until the review is over, and NewRange does not expect that to happen for many months and potentially more than a year.”

In a statement to the News Tribune on Thursday, Fond du Lac Band Chairman Kevin Dupuis Sr. said the proposed copper-nickel mine is "flawed" and presents a danger to "our reservation and aboriginal lands where we exercise our traditional hunting, fishing and gathering rights under the 1854 Treaty of LaPointe."

"Now PolyMet is telling us that it does not even have a firm plan anymore," Dupuis said, "but it is going to review the project, and it is impossible to know what the design will look like after their review is over. DNR should not permit a project if not even PolyMet knows how it will be built."

NewRange and the DNR declined to comment for this story.

The use of tailings dams and basins — particularly upstream construction methods, which the NewRange plan calls for — has [come under global scrutiny after high-profile failures](#).

(<https://www.reuters.com/article/idUSKBN2AXoYI/>)

Instead, the industry is gravitating toward the dry stack method of tailings storage as a standard. Dry stacking removes most of the tailings' water content before the sand-like leftovers are piled onto a mound, generally with stormwater collection, and plans to cover it with soil and vegetation in the future.

In 2019, the now-stalled proposed Twin Metals underground copper-nickel mine near the Boundary Waters Canoe Area Wilderness [changed its plan from a tailings dam to dry stack facility](#).(<https://www.duluthnewtribune.com/business/twin-metals-says-it-will-use-dry-stacking-method-to-store-tailings>)

Talon Metals, which wants to build an underground nickel mine near Tamarack, [now plans to ship the ore mined in Aiktin County](#)

The environment is drier there and the plan would require fewer permits from Minnesota agencies, Talon said.

In an April 2 filing, DNR attorneys urged Wilson, who is making a decision independent of the agency, to instead pause proceedings for nine months or until the company moves forward with a new or modified plan.



Two long-unused water pipes stick out from atop a reclaimed tailings basin at PolyMet in 2017. Water is used to move tailings from a plant to a basin and is then returned to the plant for reuse. Steve Kuchera / File / Duluth Media Group

“Given the uncertainty of whether PolyMet (NewRange) intends to proceed with (bentonite) amendment at the tailings basin, coupled with DNR’s fiduciary duty to be prudent in spending further public dollars on this matter, this approach will help ensure that the parties do not expend resources on an issue that may well become moot,” wrote Jon Katchen, an attorney representing the DNR.

In an April 9 filing, the Minnesota Center for Environmental Advocacy, counsel for a coalition of environmental organizations, urged Wilson to deny NewRange’s permit to mine application as incomplete.

In a statement Thursday, Kathryn Hoffman, CEO of the Minnesota Center for Environmental Advocacy, reiterated that she believes the copper-nickel mine would threaten the Lake Superior watershed and people living downstream.

“The viability of the whole proposal depends on this part of the plan, and at this late stage, like 20 years in, Polymet says it might want to change it?” Hoffman said. “As our filing in this case states:

No permit can be granted because there is no longer a complete application.”

Paula Maccabee, advocacy director and counsel for WaterLegacy, also urged Wilson to deny the permit to mine application and dismiss the proceedings. In a statement Thursday, she said NewRange’s “application is not viable.”

“It is time for NewRange to go back to the drawing board,” Maccabee said.

On April 12, Wilson told attorneys he had received their letters and that the matter was under advisement.