

December 8, 2009

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Jon K. Ahlness
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Dear Mr. Arkley and Mr. Ahlness:

This letter is submitted on behalf of WaterLegacy, an organization founded to protect Minnesota water resources and the communities who depend on them. WaterLegacy has concerns about the PolyMet copper sulfide-mining project, the adequacy of the draft environmental impact statement DEIS and the adequacy of the current public meeting process.

We are concerned about the paucity of public meetings on the DEIS, the timing of the public meetings, the location of the public meetings and the format of the public meetings. Our concerns:

- 1) There are too few public meetings to provide members of the community an opportunity to learn about this precedent-setting project and express their opinions. The perspective of which Mr. Arkley informed us on Monday, December 7, 2009, that the oral comments of members of the public cannot be made openly since so many participants are expected, heightens our concern about having only two meetings for such a significant project. We do not believe that a public meeting process where citizens are sequestered to make comments is adequately informative or participatory. If having too few meetings is contributing to the need for this type of process, the solution should be to schedule more meetings.
- 2) The timing of the public meetings is too soon after the release of the massive and complicated draft EIS. Experts have not had a chance to review information and members of the public are often just learning of this issue for the first time. Scheduling public meetings in the weeks between Thanksgiving and Christmas is also inconvenient for many people, further diminishing the efficacy of public participation. Additional meetings are needed after the New Year, and the time for public comment should be extended by another two months to permit adequate public participation in review and comment on the DEIS.

- 3) The locations of the current public meetings are inconvenient to large groups of citizens both in Greater Minnesota and in the Twin Cities area. The PolyMet project and its environmental review will set precedent for any future sulfide mining proposals. Setting a venue in the Hoyt Lakes area and placing a single Twin Cities meeting remote from the population center seem poorly designed to permit members of the public to access information and oral comment opportunities. Additional meetings are needed at more convenient locations.
- 4) A public meeting process that allows the consultant for the responsible government agencies to explain its perspective on its own draft EIS document and allows no other perspective to be voiced is neither a public meeting nor an informational meeting. This meeting format not only deprives members of the public of the opportunity to hear from each other, but prevents citizens from hearing from the cooperating agencies, who have a unique and official perspective on the findings and positions taken in the DEIS. Whether intentionally or inadvertently, it is certain that some members of the public who only hear from a consultant promoting the perspectives of the DEIS will be intimidated and will be less likely to express comments that differ from those in the DEIS

To address these concerns, WaterLegacy would make the following requests of the Minnesota Department of Natural Resources and the U.S. Army Corps of Engineers:

- 1) Extend the comment period on the DEIS from February 3, 2010 to at least March 26, 2010. Ensure that members of the public as well as experts have sufficient time to review and understand the DEIS before the comment period lapses.
- 2) Schedule at least two meetings in late January and early February in convenient locations in Duluth and in St. Paul, Minnesota. Since the PolyMet project is the first sulfide mine to be considered for permitting in Minnesota and there are copper sulfide mining prospects in southeastern Minnesota as well, it is strongly recommended that there also be a public information meeting in Rochester.
- 3) Ensure that the additional public information meetings operate as public meetings. Allow members of the public to come to a microphone in front of the group and have their comments transcribed by a court reporter. This is the customary practice for environmental impact statement public meetings in energy proceedings throughout Minnesota. It is well-known and successful in helping the public understand complex issues.
- 4) Provide all meeting attendees (including attendees at the meetings this week) with a balanced perspective on the DEIS. Along with the consultant's point of view on the DEIS that EMR prepared, specifically invite a representative of the cooperating agencies to explain the alternative findings and positions developed by the Tribes. This will allow members of the public who haven't been able to wade through the thousands of pages of the DEIS and appendices to understand both points of view from the agencies formally involved in this process.

In addition, WaterLegacy would express our concern that the Minnesota Department of Natural Resources (MDNR) email address for public comments has been out of service for several days during the past week. We have repeatedly heard from citizens that their efforts to comment bounced back. We would not only request that this problem be immediately rectified and that the Department ensure that no additional shut-downs occur.

We have also heard from citizens that paper copies of the DEIS are not yet available at all of the locations where the MDNR web site states that they will be available. We would request that paper copies be immediately provided at each of the referenced locations and that both paper copies and CD copies of the DEIS be available to citizens on request

In addition to concerns raised herein about the public hearing process and the magnitude and complexity of the environmental issues raised by the PolyMet DEIS (documented in previous letters by WaterLegacy and many other environmental groups), these technical problems with the comment process and with the availability of information to citizens provide yet further justification for extension of the time for public comment to at least March 26, 2010.

We would be pleased to answer any questions or to provide more detailed suggestions on the timing, venue or structure of additional public meetings on the PolyMet DEIS. Please feel free to call Paula Maccabee at 651-646-8890 or to send an email to pmaccabee@visi.com.

We appreciate your consideration of ways to make public participation in the PolyMet EIS process more effective.

Sincerely yours,

A handwritten signature in cursive script that reads "Paula J. Maccabee". The signature is written in black ink and is positioned above the typed name.

Paula Goodman Maccabee
Counsel for WaterLegacy

cc: Tribal Cooperating Agencies