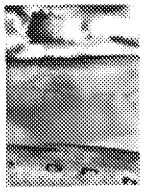

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March 25, 2012

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Dear Mike, Ken, Chris, Tom, Krista, Melanie:

Thank you so much for meeting with representatives of the Minnesota environmental community in a conference call on Tuesday, March 20 regarding environmental review for the PolyMet project. You might be interested in knowing that the following groups were represented in our conversation in addition to WaterLegacy: the Sierra Club, Minnesota Center for Environmental Advocacy, Friends of the Boundary Waters Canoe Area Wilderness, League of Women Voters Minnesota, Friends of the Cloquet Valley State Forest, Save Lake Superior, Protect Our Manoomin, Audubon Minnesota, Environment Minnesota and Minnesota Trout Unlimited. We were delighted that EPA staff took the time to address our many questions and believe that we learned a great deal from this exchange.

First, we are very pleased that the EPA has requested information from the borings at the PolyMet site to evaluate the presence of bedrock fractures and brines. Our organizations have been concerned about bedrock fractures, not only in light of the Former Finland Air Force Station reports we've previously discussed, but as a result of reviewing the Phase I Environmental Site Assessment by Cliffs Erie of the Hoyt Lakes Facility, Dunka Property, Taconite Harbor, and Railroad Corridors. This Phase I Site Assessment (attached) states that the Virginia Formation and the Biwabik Iron Formation contain fracture systems sufficient to be considered aquifers and that mine dewatering over the years has enough drawdown around active mine pits that the water table lies within the fractured bedrock. (p. 10).

You also asked for copies of the articles pertaining to findings of high levels of chloride within the AMAX shaft. We sent these articles to Simon Manoyan in June 2011 along with a brief letter summarizing our scientists' concerns about brines. Both the letter and articles are attached again for your information.

Several additional issues discussed in our conversation on Tuesday seem to merit follow up. Many of them were referenced in WaterLegacy's February 6, 2012 water resources memo with citations to applicable documents.

Our groups remain concerned that use of the Canisteo pit analogy serves to minimize the potential for drawdown and indirect wetlands impacts. Our groups also believe that PolyMet's prediction of surface water impacts from waste rock piles, particularly the permanent Category Waste I rock pile are unrealistic and do not reflect scale-up from field studies. Our groups agree

that subaqueous disposal reduces acidity, but believe both that the degree of anoxia is less than assumed and that reduced acidity does not prevent leachate of copper, nickel and cobalt, resulting in aquatic toxicity. Our scientists suggest that the EPA should both look at the LTV tailings basin experience with hornfels disposal and request testing of the AMAX and Inco shafts to determine field experience with subaqueous placement of Duluth Complex rock.

Our groups were interested to learn that the EPA's highly critical rating of the DEIS was based on the West Pit overflow. We would ask what data is available demonstrating that acidic and contaminated water from the West Pit would not enter jurisdictional waters prior to pit overflow. We are aware of no such hydrological information. We would also note that the NorthMet Project Description (Ver. 3, Sept. 2011) may suggest active water quality treatment of West Pit waters, but provides no specific requirements for the nature or duration of treatment. (pp. 64-65, 71). The concerns raised by the EPA in its review of the DEIS have not been resolved.

Based on discussions with Minnesota's DNR, there are no plans to require financial assurance beyond the minimal requirements in Minnesota law. The DNR regulations only require an assessment of financial risks based on the status of the project in that year, not based on the overall project plans. Given the clear long-term risks of water pollution at the mine site, this annual assessment for financial assurance is unacceptable. We know that the EPA is keenly aware of this issue given the enormous Superfund liabilities for similar mines in the Western United States. In fact, Minnesota already has at least one example at the Dunka Mine where mining company bankruptcy resulted in cessation of operations at a water treatment plant to treat discharge from Duluth Complex materials, despite high levels of sulfate and metallic leachate resulting in aquatic toxicity. We ask that EPA apply expertise gleaned from drafting its own rules on financial assurance for mines to hold DNR to the highest possible standard when evaluating the adequacy of the financial assurance in this project.

Our discussion also touched upon the issue of aquatic resources of national importance and the role of wetlands within the St. Louis River watershed in protecting natural wild rice and aquatic life further downstream, given the impacts on water quality of mining pollution throughout the watershed. Bruce Johnson and I will be working to identify research from the Regional Copper Nickel study and other references that EPA scientists may review to assess the important functionality of existing wetlands within this important watershed.

Our groups and the many Minnesota citizens we represent are concerned that the PolyMet Project would result in significant impairment and destruction of Lake Superior Basin aquatic resources and violation of water quality standards for hundreds of years, if not in perpetuity. We appreciate the expertise and effort invested by the EPA in helping to protect these vital resources.

We would appreciate another phone conference later this summer and would request an update on any progress in obtaining hydrological information from PolyMet including borehole data. Thank you again for your willingness to communicate with environmental stakeholders and to increase the transparency of the environmental review process.

Sincerely yours,

Paula Goodman Maccabee
Counsel/Advocacy Director for WaterLegacy

Enclosures