PROPOSED NORTHMET MINE PROJECT, POLYMET INCORPORATED

DEPARTMENT OF THE ARMY (DA) CLEAN WATER ACT (CWA) SECTION 404 PERMIT DECISION AND NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) RECORD OF DECISION PROCESSES

We are here

2016

OCT

Team extracts info from the Final Environmental Impact Statement (FEIS) to evaluate the proposed mine's impacts, and its intended use, on the public interest factors listed in 33 CFR Part 320.4 and in the NEPA.

NOV

DEC

Team submits, for internal review, the Draft Public Interest Review (PIR) factor evaluation sections for inclusion in the Sect. 404 permit decision and the FEIS record of decision (ROD) document.

2017

JAN

Team revises the PIR to reflect the internal review comments.

FEB | MAR | APR | MAY

Team prepares and compiles DRAFT ROD, PIR, CWA 404(b)(1) evaluation (including alternatives analysis and mitigation) and evaluation of compliance with other federal laws.

JUN

VARIABLE TIMEFRAME

MDNR & MPCA Permit Decisions Signed by the State (20+ permits).

VARIABLE TIMEFRAME

Corps examines the state permits in regards to the federal authorities delegated to the state. Pertinent information is assimilated into the Corps' permit decision/ROD document.

Corps signs the permit decision/ROD document.

i. **The Clean Water Act (CWA)**, Section 404 states that the Secretary of the Army, acting through the Chief of Engineers, may issue permits for the discharge of dredged or fill material into navigable waters of the United States.

ii. **NEPA requires federal agencies to prepare environmental impact statements (EISs)** for major federal actions (in this case a Sect. 404 Permit) that may significantly affect the quality of the human environment. The EIS process is completed in the following ordered steps: Notice of Intent (NOI), Draft EIS, Final EIS and the **Record of Decision (ROD)** which is the final step. The ROD lists all the alternatives considered, identifies the selected alternative, specifies the "environmentally preferable alternative" and provides information on the adopted means to avoid, minimize and compensate for environmental impacts. The NorthMet Mine Record of Decision (ROD) will include a statement of findings, issued by the Corps, that governs whether or not a Sect. 404 permit is issued, and if so, what specific development activities that were requested by the proponent will be allowed or not allowed.

iii. **The public interest review (PIR) factors** are listed in 33 CFR Part 320.4, General Policies for Evaluating [Dept. of Army] Permit Applications.

iv. **Dates PolyMet Submitted Applications/Permit/(Responsible State Agency):**
11 July 2016: Dam Safety Application (DNR)
11 July 2016: Five (5) Water Appropriation Applications (DNR)
11 July 2016: NPDES/SDS Water Quality Permit (PCA)
02 Aug. 2016: Sect. 401 Certification (PCA)
24 Aug. 2016: Air Permit Application (PCA)
03 Nov. 2016: Permit To Mine (DNR)
03 Nov. 2016: Wetland Replacement Application (DNR)

Examples of Other DNR Permits:
Endangered Species Taking (MDNR)
Permit to Work in Public Waters (MDNR)
Burning Permit (MDNR)

Other Actions:
In December 2016 the National Historic Preservation Act, Section 106, Memorandum of Agreement (MOA) for the NorthMet mining project was signed by the: U.S. Forest Service (Dec. 15), U.S. Army Corps of Engineers (Dec. 15), PolyMet Mining Incorporated (Dec. 16), Minnesota Historic Preservation Office (Dec. 20) and the Advisory Council on Historic Preservation (Dec. 27). The Bois de Forte Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa and the Grand Portage Band of Lake Superior Chippewa, as concurring parties, choose not to sign. However, the Bands indicated a desire to remain actively involved in the implementation of the MOA.

The U.S. Forest Service (USFS) ROD was signed on January 9, 2017 which authorized a land exchange for the USFS Forest to convey 6,650 acres of federal land, under which PolyMet owns the sub-surface (mineral rights), in exchange for the USFS acquisition of 6,690 acres of non-federal lands.

On January 30, 2017 the WaterLegacy filed a lawsuit against the federal government stating that the USFS violated the Federal Land Policy and Management Act because it failed to consider the highest and most profitable use of the Superior National Forest land in the land exchange.

On March 28, 2017 The Center for Biological Diversity, Earthworks and Save our Sky Blue Waters filed suit, under the Endangered Species Act, against the federal government, naming the USFS and the U.S. Fish and Wildlife Service (gray wolf and Canadian lynx).