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PolyMet Permit for Minnesota Copper, Nickel Mine Leads to Lawsuit

By Stephen Joyce

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- Dec. 3 filing challenge state's permit approvals
- Petitioners to seek stay requests to stop any mine activity

Eight environmental and clean-water groups appealed Minnesota's decision to grant PolyMet Mining Corp. a permit to operate a copper and nickel mine in Minnesota.

In Dec. 3 Minnesota Court of Appeals filings, the groups also asked the court to overturn Minnesota's existing nonferrous mining rules, arguing they are too vague to be enforced by courts or regulatory agencies.

The groups allege the state violated existing rules by issuing the permit before final mine-design plans have been filed with the state.

The Minnesota Department of Natural Resources (DNR) on Nov. 1 approved a permit to mine and 10 additional, supporting permits that advanced Toronto-based PolyMet's push to operate what would be Minnesota's first non-ferrous mine, which would yield metals including platinum, palladium, gold, copper, nickel, and cobalt.

But in an appellate filing, the groups alleged that the department failed to comply with state laws, resulting in a permit that doesn't protect the natural resources of the state.

PolyMet spokesman Bruce Richardson declined to comment to Bloomberg Environment, citing his company's policy of not commenting on active litigation.

Filing Flurry

The groups also argued that the rules established to implement the Minnesota permit statutes don't provide adequate limits on what PolyMet can do during its mining operations, and that they give the state too much discretion when issuing mining permits.

In a separate filing, the groups asked for declaratory judgment from the court that the permit is invalid because the department's decision failed to implement state statutes and "are otherwise so vague that neither a party affected by these rules nor this Court can determine what is required or prohibited.

The petitioners also appealed the department's final decision to grant a dam-safety permit.

Aaron Klemz, a Minnesota Center for Environmental Advocacy spokesman, told Bloomberg Environment the groups also plan to seek a stay during the week of Dec. 3.

PolyMet in 2005 first submitted to Minnesota regulators its proposal for the project, located on 30 square miles of land about halfway between Duluth, Minn., and the Canadian border.

The mining project still needs local approvals, water and air quality permits from the Minnesota Pollution Control Agency, and a wetlands permit from the U.S. Army Corps of Engineers.

The groups appealing the permits include the Center for Biological Diversity, Duluth for Clean Water, Minnesota Center for Environmental Advocacy, Save Lake Superior Association, and WaterLegacy.

The case is In re Minn. Dep't of Nat. Res. Issuance of a Permit, Minn. Ct. App., Docket No. Not Available, 12/3/18.

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