



Minnesota Center for Environmental Advocacy

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PolyMet Draft Permit “an Environmental Disaster Waiting to Happen,” Petition filed for Contested Case Hearing

SAINT PAUL, MINNESOTA – Today, the Minnesota Center for Environmental Advocacy, the Center for Biological Diversity and the Friends of the Boundary Waters Wilderness submitted a petition to the Minnesota Department of Natural Resources (DNR), requesting a contested case hearing on the PolyMet permit to mine application. The petition asks for specific changes to the PolyMet draft permit to mine, or a hearing if these changes are not ordered by the Minnesota DNR.

A contested case hearing is a hearing run by an administrative law judge to evaluate disputes about material issues of fact in a permit decision. Contested case hearings are commonly ordered to evaluate complex factual issues, and are requested by parties on all sides. For example, U.S. Steel recently requested a contested case hearing on a permit for the Minntac mine.

“Before making a decision on the PolyMet permit, a full, fair, and fact-based hearing is needed so the DNR commissioner can make a decision that protects Minnesotans,” stated Kevin Lee, Senior Attorney at MCEA. “As we’ve examined the record, we’ve found Minnesota Department of Natural Resources employees and outside experts have raised serious concerns about the safety of PolyMet’s mine plans, particularly the mine waste dam.”

Along with the petition, six expert reports analyzing the PolyMet draft permit to mine were also submitted from mine engineers, geochemists, geophysicists, and hydrologists. The petition identifies eight areas where material issues of fact are in dispute and must be resolved prior to a decision on the permit to mine. Specific examples include:

- **Dam safety:** Minnesota rules do not allow mine waste and water to be permanently stored behind a dam, but that is allowed by the PolyMet draft permit. The petition states “[W]et covers are a thing of the past, a dangerous relic of a form of mining undertaken before the passage of environmental protection laws ... The Permit to Mine Application now before the DNR thus poses the worst of all worlds: the maintenance of a permanent tailings lake that severely compromises long term dam stability, by using a water retention barrier that is unlikely to work.” The petition concludes that this approach is “an environmental disaster waiting to happen.”
- **Financial Assurance:** The DNR has failed to require an updated cash flow and financial feasibility analysis from PolyMet, which makes the financial assurance that is supposed to protect Minnesota taxpayers vulnerable. One expert report submitted today finds that during Year 9 of the mine plan, 72% of PolyMet’s projected income would be dedicated to financial assurance

costs, primarily in the form of the ramped up trust fund contributions. The same projection finds that in Mine Year 15, PolyMet is projected to be cash flow negative: PolyMet will not produce enough revenue to pay for its financial assurance obligations.

- **Vagueness and Unenforceability**: The 68,607 pages of permit application are vague and do not require PolyMet to meet "specific permit requirements" and "permit terms and conditions" as required by Minnesota rules. Instead of providing plans that require action by PolyMet, the application references many plans that either haven't yet been written or do not provide clear, enforceable guidance to PolyMet and the DNR. The petition identifies 19 plans or submittals required as part of the permit to mine that are not provided for public review as part of the application.
- **No term**: There is no term that time limits the permit, which is critical because a permit to mine is "irrevocable during its term" under Minnesota law.

This petition is separate from comments that conservation groups will file on the permit to mine. The public input period is open for one more week, and closes on Tuesday, March 6th. People who wish to have their say on PolyMet's draft permit to mine can submit comments to the Minnesota DNR at <http://polymet.mn.gov>.

ABOUT THE ORGANIZATION

The Minnesota Center for Environmental Advocacy is a nonprofit organization using law, science, and research to protect Minnesota's natural resources, wildlife and the health of its people. (www.mncenter.org)

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