



SENT ELECTRONICALLY

November 18, 2015

Ms. Tamara Cameron
Chief, St. Paul District Regulatory Branch
US Army Corps of Engineers
Sibley Square at Mears Park
190 5th Street East, Suite 401
St. Paul, MN 55101-1638
tamara.e.cameron@usace.army.mil

RE: PolyMet Mining Corp. NorthMet Project Clean Water Act Section 404 Permit
MVP-1999-5528-JKA
Request for Public Hearing

Dear Ms. Cameron:

This letter is submitted on behalf of the following environmental and civic organizations: Center for Biological Diversity, Friends of the Boundary Waters Wilderness, Friends of the Cloquet Valley State Forest, Izaak Walton League - Minnesota Division, Minnesota Center for Environmental Advocacy, Northeastern Minnesotans for Wilderness, Save Lake Superior Association, Save Our Sky Blue Waters, Sierra Club North Star Chapter, Wilderness Watch, and WaterLegacy.

We appreciate that the U.S. Army Corps of Engineers ("Corps") issued a supplemental public notice on November 13, 2015 for the Clean Water Act ("CWA") Section 404 permit for the proposed PolyMet NorthMet copper-nickel mining project ("PolyMet Project"). Pursuant to this supplemental public notice, and prior to expiration of the comment period on December 14, 2015, the undersigned groups are requesting in writing that a public hearing be held to consider substantive issues pertaining to the additional wetlands impacts and new information pertinent to the Section 404 permit that was not available when public hearings were held on the Project in 2014.

This public hearing is requested pursuant to Section 404(a) of the Clean Water Act and 33 C.F.R. §320.2(f) and § 327.4 to assist the Secretary of the Army, acting through the Chief of Engineers, in determining whether discharge and disposal requested by PolyMet pursuant to Section 404 should be denied, prohibited or restricted to prevent unacceptable adverse impacts on wetlands and downstream water quality.

The Corps' supplemental public notice for the PolyMet Project states, "The 1.37 acres of direct wetland impacts would occur in conjunction with the construction of the tailings basin containment system that manages tailings basin seepage." The undersigned groups request a public hearing to consider issues related to the construction of this tailings basin containment system. These would include issues related to secondary wetlands and water quality impacts of the containment system and impacts of the containment system on dam failure, in light of the Mount Polley tailings breach and the subsequent independent report analyzing its failure, both of which occurred subsequent to the 2014 public hearings on the PolyMet Section 404 permit.

We note that the containment system for which this wetland fill is needed is a new component of the

mine plan designed to prevent water quality impacts to the east of the tailings basin, and that the containment system will result in significant changes to the hydrology of the area. The public was unable to comment on the efficacy or impacts of the containment system at the public hearing or during the public comment period on the SDEIS because the system was not part of the plan at that time. Furthermore, the SDEIS misinformed the public in stating that the project had no potential for water quality impacts to the east of the tailings basin, an area where surface waters are already listed as impaired. We note that the risk of water quality impacts in this area was previously undisclosed, and the public has thus not had an opportunity to comment on it.

The undersigned groups further request a public hearing on the PolyMet Section 404 permit on the grounds that PolyMet's August 2013 permit application referenced draft environmental review documents to meet requirements for compliance with the CWA Section 404 Guidelines. As the U.S. Environmental Protection Agency (EPA) noted in its March 13, 2014 comments on PolyMet's 2013 application, since the permit application was not a standalone document and since the 2013 supplemental draft environmental impact statement (SDEIS) was subject to change, receipt of comments addressing the application's compliance with Section 404 requirements could not be limited to the comment period for PolyMet's 2013 application.

The EPA also noted in its March 13, 2014 comments on the PolyMet SDEIS that neither PolyMet's 2013 permit application nor the SDEIS on which the public commented in 2014 public hearings provided any of the following for the PolyMet Project: a quantitative assessment of its indirect impacts on wetlands, a proposal for compensatory mitigation for such secondary impacts, or an identification of the least environmentally damaging practicable alternative (LEDPA) for the Project. In addition, the SDEIS and the original permit application did not contain adequate information on plans for compensatory mitigation to allow for meaningful public review and comment. We understand that the FEIS contains new information on the compensatory mitigation sites and the monitoring plan for indirect impacts. All of this information is required for Section 404 permitting, and a public hearing that would allow comment on the current state of the record on these issues would assist the Corps in its assessment of whether the PolyMet Section 404 permit should be granted, denied, prohibited or restricted.

The undersigned organizations believe that the change in wetlands impacts, the change in the tailings basin collection system, new information regarding secondary effects of the tailings basin collection system on wetlands and dam failure risks, and the gaps and deficiencies in PolyMet's 2013 Section 404 application related to secondary wetlands impacts, compensatory mitigation, and LEDPA provide substantial reasons for a public hearing, the opportunity for which is required by the Clean Water Act.

We would request that such a public hearing be held in January 2016 following a 30-day notice as required by 33 C.F.R. § 327.11(a), and that the Corps' extend the time period within which comments on the PolyMet final environmental impact statement and the Section 404 public notice will be accepted for consideration in the Corps' Record of Decision until at least ten days beyond the hearing date, pursuant to 33 C.F.R. § 327.8(g).

Please inform us at your earliest convenience of the Corps response to our requests. You can contact our groups regarding our request for a public hearing and an extension of the time within which public comments will be accepted by email addressed to pmaccabee@justchangelaw.com and aaron@friends-bwca.org. Thank you for your interest in ensuring effective public participation and public hearings in this matter.

Sincerely yours,



Steve Morse, Executive Director
Minnesota Environmental Partnership

Center for Biological Diversity

Friends of the Boundary Waters Wilderness

Friends of the Cloquet Valley State Forest

Izaak Walton League - Minnesota Division

Minnesota Center for Environmental Advocacy

Northeastern Minnesotans for Wilderness

Save Lake Superior Association

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