

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



September 16, 2014

The Honorable John Marty
Minnesota Senate
State Capitol Building – Room 323
St. Paul, Minnesota 55155

The Honorable Alice Hausman
Minnesota House of Representatives
State Office Building – Room 453
Saint Paul, Minnesota 55155

The Honorable Andrew Falk
Minnesota House of Representatives
State Office Building – Room 439
Saint Paul, Minnesota 55155

The Honorable Erik Simonson
Minnesota House of Representatives
State Office Building – Room 429
Saint Paul, Minnesota 55155

The Honorable David Bly
Minnesota House of Representatives
State Office Building – Room 559
Saint Paul, Minnesota 55155

The Honorable Carolyn Laine
Minnesota House of Representatives
State Office Building – Room 485
Saint Paul, Minnesota 55155

The Honorable Barb Yarusso
Minnesota House of Representatives
State Office Building – Room 507
Saint Paul, Minnesota 55155

Thank you for your letter regarding the events at the Mount Polley mine in Canada and how they may inform our review of PolyMet's proposed NorthMet project in Minnesota.

First, please let me assure you that DNR is always seeking to learn from mines operating both within and beyond Minnesota, including those that operate successfully as well as those that present problems. While the long term environmental impacts of the Mount Polley release will not be fully known for some time, the tailings basin failure at this mine represents a significant mining disaster. As you know, the Canadian authorities have begun an investigation into the causes of the event. I have instructed my staff to track the progress of the investigation and to contact Canadian regulatory officials to ensure we receive a full report when the investigation is complete. It is important that we fully understand the root cause(s) of this disaster and what lessons can be learned for any of Minnesota's current or potential future mining operations.

Your letter specifically requested additional information regarding the DNR's oversight of PolyMet Mining's proposed NorthMet project in light of the Mount Polley disaster. As you know, DNR is currently in the process of reviewing public comments on the supplemental draft environmental impact statement (SDEIS). DNR and its federal co-lead agencies are taking a hard look at all of the comments, including those regarding safety of the tailings dam proposal, contingency planning, and financial assurance. Detailed responses to the comments will be contained in the final environmental impact statement, which will be available for your review



and comment. It is important to note that, at this point, DNR and its federal co-leads have not made any decisions on whether the draft EIS is adequate or whether the project will move to permitting. To date, DNR has not received any permit applications for the proposed project. If and when PolyMet does submit permit applications to DNR, those submittals will contain additional engineering and financial assurance details.

In the interim, I asked my staff to take a look at the current record for the project, as well as any recent information that may be available regarding your three questions as follows:

- 1) *What contingency plans are in place for the proposed PolyMet mine for anticipating potential problems and being prepared to address them should they arise?*

The “NorthMet Project Flotation Tailings Management Plan, Version 3, April 12, 2013” details the plans for anticipating and addressing problems should they occur. The plan includes details on maintenance, monitoring, data collection, and inspections that are necessary to anticipate potential problems. The document also includes a Contingency Action Plan with actions to be taken when certain warning signs are present. In addition, the plan includes a dam break analysis that defines the downstream area that would be affected in the event the tailings basin did fail. The project is designed with an overflow spillway to prevent an overtopping failure. SDEIS pages 5-568 and 5-569 summarize proposed monitoring, maintenance and contingency planning based on the details in the April 2013 tailings management plan.

- 2) *How does the Mt. Polley tailings basin failure factor into the way the MN DNR will handle financial assurance, in calculating financial assurance and what is included, and in the selection of a financial instrument?*

As DNR monitors the investigation of the Mount Polley disaster, we will seek to fully understand the financial assurance mechanisms that have been established for that site and identify applicable lessons for Minnesota.

We will, of course, also be guided by Minnesota statutes and rules, which require financial assurance to ensure there is an adequate source of funds to be used by DNR if the permittee fails to perform reclamation activities and/or corrective actions due to noncompliance with a permit to mine. One key to successful financial assurance is to ensure the financial mechanisms are implemented in advance of the mining activities they are designed to address. Analysis of PolyMet’s detailed financial assurance proposal would occur during the permitting process for a permit to mine. DNR has not received this permit application to date.

If PolyMet's proposed mine is ultimately permitted, DNR would then review the adequacy of the operator’s financial assurance on an annual basis and consider the current mine progression and any identified needs or risks. Financial assurance for a new mine would likely include several financial instruments such as surety bonds, insurance policies, trust funds, or other financial arrangement that, in combination, demonstrate reliable access to sufficient financial resources to comply with all permit requirements, including reclamation

and corrective actions that the permit to mine and associated environmental laws require. Financial assurance requires the availability of adequate funds for the State to hire a third party to perform reclamation in the event the permittee does not comply. Pages 3-136 to 3-139 of the SDEIS summarize the current financial assurance information.

3) *What role did Knight Piesold play with regard to reviewing the engineering design of the proposed PolyMet tailings basin?*

The NorthMet engineering design was produced by Barr Engineering, under contract to PolyMet. Barr's design has been reviewed by the co-lead agencies in charge of preparing the environmental review document (Minnesota Department of Natural Resources, the U.S. Army Corps of Engineers, and the U.S. Forest Service). To help write the environmental review document, the co-lead agencies are using the consulting services of Environmental Resources Management (ERM). Knight Piesold is a sub-consultant working under ERM to help review the design and write about the geotechnical aspects of the proposed project in the environmental review document. Attached for your information is a statement from Knight Piesold describing its involvement with the Mount Polley Mine.

Again, I want to thank you for sharing your concerns. The DNR will closely monitor the progress of the Mount Polley investigation and critically analyze what insights can be gained that are applicable to existing or proposed mines in Minnesota. Regarding PolyMet's proposed project, we are still in the process of developing a final environmental impact statement and no decisions have been made on whether to permit the project. If the project does proceed to the permitting phase, it will include a specific permit related to dam safety. The DNR is committed to bringing the highest level of scientific rigor and financial analysis to our review of this project to ensure protection of public health and safety, our natural resources, and Minnesota's taxpayers.

Please do not hesitate to contact me at any time regarding this project or the status of our review.

Sincerely



Tom Landwehr
Commissioner

Alice Hausman
State Representative

District 66A
Ramsey County



Minnesota House of Representatives

COMMITTEES: CHAIR, CAPITAL INVESTMENT

September 2, 2014

Commissioner Tom Landwehr
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

Dear Commissioner Landwehr,

We, the undersigned Minnesota State legislators, share with you our concerns about a recent sulfide mine disaster that occurred in Canada.

On August 4, a tailings basin breach at the Mt. Polley gold and copper mine in British Columbia, sent more than a billion gallons of sulfide mining waste into rivers and lakes in the headwaters of the Fraser River. It is the largest mining disaster in Canadian history. Prior to this massive impoundment failure, sulfide mining industry representatives called this mine a model modern copper mine, the gold standard of sulfide mines. The Mt. Polley Mine was cited by sulfide mining interests as sulfide mining done right, where significant water pollution would not occur.

Minnesotans have heard nearly identical statements of assurance from sulfide mining interests about the safety of proposed sulfide mines in the state. We have heard how modern technology and mining methods will ensure catastrophic water pollution will not occur in our land of 10,000 lakes. But the Mt. Polley disaster has us worried that a similar incident in Minnesota is possible, putting at risk treasured places like Lake Superior and the Boundary Waters Canoe Area Wilderness.

We are also concerned that the engineering consulting firm, Knight Piesold, that designed the now-failed Mt. Polley tailings basin, has played a role in reviewing the engineering designs for the proposed PolyMet mine in Hoyt Lakes, MN.

We ask you to respond to our concerns with additional information about the Minnesota Department of Natural Resources' (MN DNR) oversight work on the proposed PolyMet mine. We ask you to help us understand how the MN DNR is ensuring that a Mt. Polley-type disaster does not occur in Minnesota. In particular:

1. The Mt. Polley mine has been criticized for failing to have adequate contingency plans in place to respond to signs of structural problems and to



emergencies. What contingency plans are in place for the proposed PolyMet mine for anticipating potential problems and being prepared to address them should they arise?

2. Financial statements of Imperial Metals, owner of the Mt. Polley mine, show a capital deficit, which may force taxpayers to pay up to an estimated \$500 million in clean-up costs for this disaster. How does the Mt. Polley tailings basin failure factor into the way the MN DNR will handle financial assurance, in calculating financial assurance and what is included, and in the selection of the financial instrument?
3. What role did Knight Piesold play with regard to reviewing the engineering design of the proposed PolyMet tailings basin?

Thank you for responding to these questions and concerns. We look forward to further conversations with you.

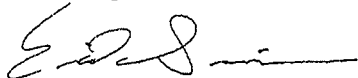
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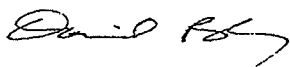
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