

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

In the Matter of the Denial of Contested Case
Hearing Requests and Issuance of National
Pollutant Discharge Elimination System/State
Disposal System Permit No. MN0071013 for
the Proposed NorthMet Project, St. Louis
County, Hoyt Lakes and Babbitt, Minnesota

Court File No. 62-CV-19-4626
Judge John H. Guthmann

**DECLARATION OF
MATTHEW L. MURDOCK**

I, MATTHEW L. MURDOCK, in accordance with section 358.116 of the Minnesota Statutes and rule 15 of the Minnesota Rules of General Practice, declare as follows:

1. I am an attorney licensed in the District of Columbia and am employed by Sonosky, Chambers, Sachse, Endreson & Perry, LLP as an attorney. In the above-captioned matters, I represent the Fond du Lac Band of Lake Superior Chippewa (“Band”). As a result of that representation, I am familiar with the matters contained in this declaration.
2. Pursuant to the Court’s direction at the September 16, 2019 Discovery Telephone Conference, the Band searched for documents in its possession that “may prove or disprove claims of procedural irregularities.” Discovery Telephone Conference Tr. (“Conference Tr.”) 123:3-4.
3. The Band, WaterLegacy, Minnesota Center for Environmental Advocacy, Friends of the Boundary Waters Wilderness, and the Center for Biological Diversity (collectively, “Relators”) prepared a combined privilege log that listed documents that were within the scope of discovery. The Band did not include documents on Relators’ privilege log that were outside the scope of discovery determined by the Court.
4. As indicated on Relators’ privilege log, the Band withheld three documents in full and the author’s name for a fourth document. Two documents are e-mails withheld in full on the basis of

attorney-client privilege, attorney work product, and a confidential source. The third document is an e-mail withheld in full on the basis of a confidential source. The Band, along with other Relators, redacted the name of the author of a fourth document on the basis of a confidential source, but otherwise produced that document (“RELATORS_0064143”).

5. As indicated on Relators’ privilege log, the Band did not withhold a document on the basis of sovereign immunity. The Court directed that the Band was “required to include in a privilege log a reference to any documents that [the Band] withheld on the grounds of sovereign immunity.” Conference Tr. 122:8-10. Accordingly, the Band did not list “S/I” which referred to “sovereign immunity” as a “Privilege Basis” for any of the three documents the Band withheld in full or for the author’s name of RELATORS_0064143. As stated above, those three documents and the author’s name were withheld on the other bases listed as a “Privilege Basis.” Except for the three documents and the author’s name the Band withheld as indicated on Relators’ privilege log, the Band produced responsive documents that may prove or disprove claims of procedural irregularities.

6. Relators’ privilege log listed twenty-one documents, none of which were withheld on the basis of sovereign immunity, all of which included information regarding a confidential source, and two of which included attorney work product and attorney-client privilege.

7. On behalf of the Band, I collected documents in the Band’s possession responsive to MPCA’s Requests for Production and Written Deposition Questions that may prove or disprove claims of procedural irregularities.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: November 8, 2019

s/Matthew L. Murdock
MATTHEW L. MURDOCK