

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

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, Babbitt,  
Minnesota.

Court File Number: 62-CV-19-4626

Honorable Judge John H. Guthmann

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**DECLARATION OF THOMAS L. SANSONETTI IN SUPPORT OF  
MINNESOTA POLLUTION CONTROL AGENCY'S  
RESPONSE OPPOSING RELATORS'  
MOTION IN LIMINE FOR SPOILIATION SANCTIONS**

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I, Thomas L. Sansonetti, 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 a partner with Holland & Hart LLP, 6380 South Fiddlers Green Circle, Suite 500, Greenwood Village, Colorado 80111. I have been a partner at Holland & Hart for 21 years, specializing in natural resources and environmental law. I counsel clients on all aspects of project development on state, federal, and Indian lands, beginning with the permitting and environmental reviews that take place at a project's inception through any litigation challenging a project. A significant portion of my practice involves administrative record review cases before federal and state agencies and courts.

2. Prior to joining Holland & Hart LLP, I held three positions within the federal government. First, from 1987 through 1989, I served as the Associate Solicitor for the Division of Energy Resources at the Department of the Interior. Second, from April 1990 through January 1993, I served as the Solicitor at the Department of the Interior. Third, from December

2001 through April 2005, I served as the Assistant Attorney General for the Environment and Natural Resources Division (“ENRD”) in the Department of Justice (“DOJ”).

3. As Associate Solicitor for the Division of Energy Resources, I served as lead counsel for three agencies within the Department of the Interior: Bureau of Land Management, Bureau of Reclamation, Minerals Management Service (now known as Office of Natural Resources Revenue). I was lead agency counsel representing the agencies in administrative record review appeals within the Department’s Office of Hearings and Appeals. In these appeals, I was personally responsible for coordinating with agency officials to pull documents and data that would be included in the administrative record. In most instances, I oversaw line attorneys within the Office of the Solicitor coordination with agency officials to do the same. In all appeals, either I or line attorneys within the Office of the Solicitor would coordinate with the Assistant Attorney General at DOJ and any assigned DOJ trial attorney regarding the scope and content of the administrative records. During my time as Associate Solicitor, I did not issue “litigation holds” to agencies or agency officials responsible for compiling the administrative records, nor was I instructed by DOJ attorneys to issue “litigation holds.”

4. As the Solicitor at the Department of the Interior, I was chief legal advisor to the Secretary of the Interior and was the individual responsible for managing all the attorneys within the Office of the Solicitor.

5. As the Assistant Attorney General for the Environment and Natural Resources Division in the DOJ, I had two primary responsibilities: (1) overseeing policy, management, and budget for the Division, and (2) serving as lead trial counsel or overseeing division trial attorneys assigned to litigate cases on behalf of federal entities like the Department of the Interior, the Environmental Protection Agency, the Army Corps of Engineers, the Forest Service, the

Department of the Defense, the Department of Commerce, and the Department of Transportation.

6. In my role as lead counsel at DOJ, I represented the United States in numerous trials, Administrative Procedure Act (“APA”) appeals, and other record review cases in federal district courts and circuit courts of appeal across the country, as well as before the U.S. Supreme Court. In the APA and similar record review cases involving challenges to agency decisions, regulations, and permits, I coordinated with agency counsel, agency officials, and local Solicitors regarding the scope and content of the administrative record.

7. During my time as Associate Solicitor, Solicitor, and Assistant Attorney General of ENRD at DOJ, I never issued “litigation holds” to agencies preparing administrative records. While I am aware that each federal Department (i.e. Department of the Interior, Department of the Defense), adopts its own record retention policies, which may include the destruction of documents or other electronically stored information at certain times or after certain events, it was not my practice to issue “litigation holds” in record review cases to interfere with the agencies’ execution of those policies.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 9, 2020  
Arapahoe County  
Greenwood Village, Colorado

  
Thomas L. Sansonetti