

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

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

Case No. 62-CV-19-4626

The Honorable John H. Guthmann

**POLY MET MINING, INC.'S
OBJECTION TO ADDITIONAL
VIDEO/AUDIO REQUESTS**

INTRODUCTION

On January 16, 2020, KSTP-TV, WCCO-TV, MPR, and Duluth News Tribune noticed requests to cover the upcoming evidentiary hearing by visual and audio means.¹ In accordance with Minnesota Rule of General Practice 4.03(b) and the procedure for objections provided by the Court at the January 10, 2020 telephonic conference, Poly Met Mining, Inc. (“PolyMet”) hereby objects to the noticed visual and audio recordings.²

ARGUMENT

The Court should deny the requests of KSTP-TV, WCCO-TV, MPR, and Duluth News Tribune to cover the evidentiary hearing by audio or visual means for the reasons

¹ KSTP-TV Notice of Visual or Audio Coverage (Jan. 16, 2020); WCCO-TV Notice of Visual or Audio Coverage (Jan. 16, 2020); MPR Notice of Visual or Audio Coverage (Jan. 16, 2020); Duluth New Tribune Notice of Visual or Audio Coverage (Jan. 16, 2020).

² The Court instructed the parties to file any objections to media requests by Wednesday, January 15, 2020. PolyMet timely responded to media requests received before the Court’s deadline. For the reasons identified in this Objection, PolyMet objects to any similar requests that may follow the filing of this Objection.

provided in PolyMet’s initial Objection to Video/Audio Request, filed January 15, 2020, and for the additional reason that the requests are untimely.

First, the requests for audio and visual coverage are untimely. Minnesota Rule of General Practice 4.03(a) requires that media organizations provide “written notice of their intent to cover authorized district court proceedings by either visual or audio means” as “far in advance as practicable, and at least 7 days before the commencement of the hearing or trial.” The Court set the January 21st, 2020 hearing-commencement date nearly two months ago, on November 19, 2019.³ KSTP-TV, WCCO-TV, MPR, and Duluth News Tribune filed their notices of intent to cover the hearing by visual or audio means on January 16, 2020, less than one week before the hearing. Since KSTP-TV, WCCO-TV, MPR, and Duluth News Tribune did not file their notices as “far in advance as practicable” or, at minimum, “at least 7 days before” the hearing, the requests should be denied as untimely.

Further, for the reasons identified in PolyMet Mining, Inc.’s initial Objection to Video/Audio Request, the requests should be denied even if deemed timely. The evidentiary hearing being held under Minnesota Statutes § 14.68 is not a proceeding for which audio or visual coverage is authorized, since it is neither a “investitive, ceremonial, or naturalization proceeding[]”; an authorized “civil proceeding[],” or an authorized “criminal proceeding[.]” Minn. R. Gen. P. 4.02(b), (c), (d). Nor is the purpose of the recording “for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.” Minn. R. Gen. P. 4.02(a).

³ Amended Order Setting Evidentiary Hearing at 1 (Nov. 19, 2019).

If the Court does grant the untimely requests for audio or visual recordings of the evidentiary hearing, then at a minimum there should be no such recording of Brad Moore or Christie Kearney—the two PolyMet employees on Relators’ witness list. Under the standards applicable to civil proceedings, “[t]here shall be no visual or audio coverage of any witness who objects thereto in writing or on the record before testifying.” Minn. R. Gen. P. 4.02(c)(ii). As PolyMet explained in its initial Objection to Video/Audio Request, Mr. Moore and Ms. Kearney object to being recorded, and accordingly cannot be recorded under Minnesota Rule of General Practice 4, even if the Court grants media requests to cover the hearing by audio or video means.⁴

Finally, this is not an issue of transparency. The court reporter will make a transcript of the proceedings in the courtroom. The media should be able to access that transcript.

CONCLUSION

For the reasons stated herein, the Court should not grant KSTP-TV’s, WCCO-TV’s, MPR’s, and Duluth News Tribune’s requests—nor any future requests—to cover the evidentiary hearing by visual and audio means.

⁴ Moore Decl. (Jan. 14, 2020); Kearney Decl. (Jan. 14, 2020).

Dated: January 16, 2020

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