

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

PROPOSED ORDER

This matter comes before the Court on Relators' following motions:

1. Motion *in Limine* to Admit Evidence Pursuant to the Minnesota Administrative Procedures Act's Rules of Evidence;
2. Motion *in Limine* to Limit the Use of and Exclude Certain Evidence; and
3. Motion *in Limine* for Spoliation Sanctions.

After considering each motion, any responses thereto, and the record of the case, the Court finds that the requests should be **GRANTED**.

IT IS THEREFORE ORDERED that:

1. The evidentiary hearing will be conducted in accordance with the Minnesota Procedures Act's Rules of Evidence, Minn. R. 1400.7300;
2. The use of Minnesota Pollution Control Agency Exhibits 1120 through 1127, as well as PolyMet Exhibits 2025 through 2030, cannot be admitted during the evidentiary hearing as substantive evidence of what occurred during the permitting process; and
3. PolyMet's Exhibit 2029 is not admissible in evidence and is excluded from use at the evidentiary hearing.

IT IS FURTHER ORDERED that Relators are entitled to negative presumptions against the Minnesota Pollution Control Agency detailed in Relators' motion with respect to inferences related to their alleged procedural irregularities in instances where the Minnesota Pollution Control Agency has destroyed or deleted evidence, and that MPCA is precluded from asserting defenses that would have been undermined or negated had MPCA not destroyed or deleted evidence, as detailed in Relators' Motion *in Limine* for Spoliation Sanctions.

Dated: _____

The Honorable Judge John H. Guthmann