

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

RELATORS' WITNESS LIST

Pursuant to paragraph 5 of the Amended Order Setting Evidentiary Hearing, Relators Center for Biological Diversity, Fond du Lac Band of Lake Superior Chippewa, Friends of the Boundary Waters Wilderness, Minnesota Center for Environmental Advocacy, and WaterLegacy (collectively, "Relators") submit Relators' Witness List ("Witness List").

PRELIMINARY STATEMENT

Relators acknowledge that the Witness List is expansive. Relators have listed several persons in the event that the need for their testimony becomes apparent during the course of the Evidentiary Hearing. First, the Court directed that, absent a determination that "good cause existed for failing to disclose a witness," no witness may testify unless included on the Witness List. (Am. Order Setting Evid. Hr'g ¶ 5). Second, the Court indicated that impeachment witnesses must also be provided on the Witness List. Therefore, and given the limitations to depositions in discovery, Relators list individuals who may have "evidence which possesses probative value." Minn. R. 1400.7300; (*see also* Rule 16 Conference (Aug. 7, 2019) Hr'g Tr. at 92:10-15 (Aug. 7, 2019) ("Due to the limited grant of jurisdiction by statute, this Court rejects any contention that the present proceedings constitute a civil action controlled by the Minnesota Rules of Civil Procedure. Rather, this is an administrative proceeding controlled by the Minnesota Administrative Procedure Act.")).

This list may be shortened, as Relators will continue to attempt to reach stipulations with the Minnesota Pollution Control Agency (“MPCA”) and Poly Met Mining, Inc. (“PolyMet”) (collectively, “Respondents”), and Relators intend to make certain motions *in limine* that may obviate the need for certain witnesses.

Thus, while Relators do not intend to necessarily call every witness on this list, Relators reserve their right to call each individual listed, as well as any individuals listed by Respondents. (*See* Am. Order Setting Evid. Hr’g ¶ 5).

WITNESS LIST

Relators anticipate that the following individuals have fact or opinion evidence which possesses probative value in these proceedings. Relators list the following individuals alphabetically, and the order of the witnesses is not, and should not be construed as, a statement as to the relative importance of an individual’s testimony or the sequence in which Relators would call each individual.

1. Laura Bishop, MPCA Commissioner
2. Brian Branfireun, Ph.D., Professor of Ecohydrology, Biogeochemistry and Wetland Ecosystem Science, Western University, London, Ontario
3. Darin Broton, MPCA Director of Communications
4. Andre Chapman, Minnesota Information Technology staffperson
5. Richard Clark, MPCA staffperson
6. Rebecca Flood, former MPCA Assistant Commissioner
7. Ann Foss, former MPCA Metallic Mining Sector Director
8. Mike Gallegos, XACT Data Discovery
9. Greta Gauthier, MPCA Assistant Commissioner
10. Stephanie Handeland, MPCA staffperson
11. Christie M. Kearney, PolyMet Environmental Site Director

12. Katrina Kessler, MPCA Assistant Commissioner
13. Catherine Kuhlman, former U.S. Environmental Protection Agency (“EPA”) manager
14. Scott Kyser, MPCA staffperson
15. Shannon Lotthammer, former MPCA Assistant Commissioner
16. Krista McKim, EPA scientist
17. Brad Moore, PolyMet Executive Vice President (in his individual capacity and in his capacity as PolyMet Corporate Designee)
18. Emily Onello, M.D., Assistant Professor, Department of Family Medicine and BioBehavioral Health, University of Minnesota Duluth, Duluth, Minnesota
19. Kevin Pierard, former EPA Region 5 NPDES Program Branch Chief
20. Lenny Richards, MPCA staffperson
21. Margaret Saracino, M.D., Staff Psychiatrist, Human Development Center, Duluth, Minnesota
22. Michael Schmidt, former MPCA staff attorney
23. Brian Schweiss, MPCA staffperson
24. Jeff Smith, MPCA Director, Industrial Division
25. John Linc Stine, former MPCA Commissioner
26. Jeff Stollenwerk, former MPCA Industrial Water Section Manager
27. Peter Tester, MPCA Deputy Commissioner
28. Jeff Udd, MPCA Mining Sector Manager (in his individual capacity and in his capacity as MPCA Agency Designee)
29. Dave Verhasselt, MPCA staffperson

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Dated: December 9, 2019

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