

Tuesday, September 6, 2016

Dear Councilors:

Councilor Anderson asked me to comment on his resolution requesting that the DNR conduct an evidentiary hearing on Poly Met permits.

Poly Met must obtain several permits from the DNR prior to commencing work, including the Permit to Mine and permits related to wetlands replacement, water appropriation and dam safety. The Permit to Mine is sure to be highly controversial, and several other permits may also be quite contentious.

The DNR has called upon the community, including our downstream community of Duluth, to provide our input on the best process by which the DNR should make decisions on the PolyMet Permit to Mine and other permits. The time is ripe to provide our process recommendations.

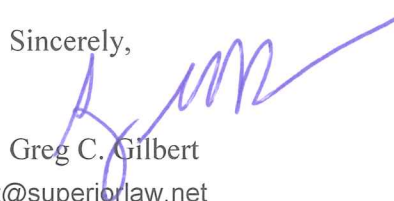
Obviously, it is in the best interests of all parties that there be an orderly and credible process for evaluating PolyMet permit applications. An orderly process will save the parties time and money, and avoid conflicting results in various legal appeals. A credible process where the evidence is placed on the record and subject to cross-examination in front of an impartial administrative judge will increase legitimacy of the project for the non-prevailing parties and reduce court appeals, allowing us to move forward in a positive manner one way or another following the completion of the permitting process.

The best way for the DNR to conduct an orderly and credible permitting process in this case is to request the Office of Administrative Hearings to conduct an evidentiary hearing (under Minnesota Rules Chapter 1400 and Minnesota Rule 6132.4000) prior to ruling on the Permit to Mine. State law gives the DNR authority to request an evidentiary hearing on a Permit to Mine application *before approval of the application* and would give the DNR authority to consolidate additional permits to increase efficiency and avoid costs.

If the DNR does not act until after permit applications have been approved, modified or denied, not only will the decision process lose credibility, but there may be multiple and conflicting demands for contested case hearings by various parties and governments, creating costs and delays to all parties.

For these reasons, I urge you to support Councilor Anderson's resolution. Thank you for all of the good work you do for the City.

Sincerely,



Greg C. Gilbert

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