

**Testimony of Kathryn Hoffman, Staff Attorney, Minnesota Center for Environmental Advocacy**  
**February 11, 2014**  
**House Committee on the Environment, Natural Resources and Agriculture Finance Committee**

Madame Chair and members of the committee

Thank you for holding this hearing. MCEA believes that this is an area ripe for legislative oversight, and we appreciate your willingness to inquire into this issue.

I am a staff attorney with MCEA. I also hold a Masters in public policy and environmental policy from the Humphrey Institute. Among my qualifications is that I am one of the unfortunate souls who has actually read the 2000 plus SDEIS.

With that in mind, my first point is that financial assurance should be part of the EIS process. The purpose of an EIS is to evaluate the environmental impacts of a project. The Polymet SDEIS concludes that there is minimal environmental impact of this project. It concludes this because it relies on a series of man-made structures to capture polluted water before it leaves the site. So let's be clear - there is no disagreement between Polymet, DNR, and my organization and others who are concerned about whether this site will produce polluted water. It will. Likely for hundreds of years. We all agree in that. PolyMet proposes to capture all or almost all of the water before it leaves the site, so the SDEIS assumes that this is completely successful, and therefore there is little impact. And here is where we disagree. MCEA does not think it is reasonable to assume that all man-made structures work perfectly all the time, and we believe that the SDEIS should explore the scenarios under which everything does not function perfectly.

DNR's failure to require adequate financial assurance is one way in which PolyMet's strategy - to collect and treat water before it leaves the site - could fail. How can the DNR, in the SDEIS, predict so confidently that it will be able to collect and treat water for hundreds of years, without showing that the funds will be available to pay for it? This is a critical piece of environmental review.

DNR stated today that they don't have enough information to calculate financial assurance. This is simply not true. Polymet has piloted its water treatment technology with specificity, and can even tell you the cost to treat each thousand gallons of water. Polymet has designed and has precise schematics for all barriers and collection systems. The drawings are all available in the public documents. They are not in the SDEIS, but we do have great detail about PolyMet's mine plan. There is a tension in Mr. Richards testimony that you may have picked up on - in one hand, they seem to have great detail about things like the longevity of liner systems on the site. On the other hand, they claim they do not have sufficient information for financial assurance at this point.

Of course the mine plan could change, and the financial assurance projects would change, too. But that is true of all analysis in the EIS, and is not a reason not to make those calculations based on the mine plan we have today.

But don't take my word for it. There is an easy to test this argument - simply require Polymet to show its work. It has projections on financial assurance. They are printed, verbatim in the SDEIS. DNR has accepted these numbers, and has never asked Polymet to prove that these numbers are reasonable are based on acceptable assumptions. Ask the DNR to get these calculations from Polymet, which it should do anyway because it published those numbers in the eis. Relying on PolyMet's projections is akin to the e-pull tabs debacle - should not be relying on estimates from parties with a vested interest in the outcome.

You'll be hearing later about how financial assurance has come a long way, and modern financial assurance packages are adequate. MCEA does not disagree - it is theoretically possible, and may have been done in some examples. But simply because it can be done does not mean it will be done in this case, and sunlight is the best disinfectant. The sooner we know what DNR intends, the better the analysis will be. It belongs in the EIS.

Thank you again, Madame Chair and representatives.