2/11/14: Polymet Financial Assurance Hearing:

Environmental, Natural Resources and Agriculture Finance Committee

Thank you Madame Chair – members of the committee - to allow me to testify on the topic of financial assurance for the Polymet mine project. The recent Environmental Disasters in Charleston W.VA and the Coal Ash spill into the Dan River in North Carolina reminds us that these accidents – or "unanticipated liabilities - do happen and that financial assurance for risky environmental projects like the Polymet mine is important. Permit me to emphasize the word "Risky". I was motivated to testify today on the financial assurances for the Polymet project after listening to proponents of this project characterize it as if it were a can't - miss investment. " no downside; mining and clean water; great opportunity for all of us in Minnesota; better move fast; thoroughly vetted and dealing with great people; full employment for the range; school trust funds and tax coffers filled to over flowing; mining and clean water too! No risk! Permit now! Sign here… and here … 21 times in total, and away we go!" In my 25 years on Wall Street assisting some of the nation's largest pension funds invest, I had heard similar pitches many, many times and knew it was a signal to head for the exit; or do more investment research. I applaud the committee for addressing the Questions on Financial Assurance posted on your web site and offer the following advice:

First: Remember that mining companies aren't angels sent from Heaven:

Their goal is to make as much money as possible for themselves and shareholders. They don't really care about us. To them, pollution is just another cost of doing business. If this project makes it to the financial assurance stage, drive a very hard bargain. Whatever amount you come up with, they'll scream it is too high, not reasonable, and they'll threaten to go back to Canada, or Switzerland, or Chile, or wherever they're from. When that happens: remind yourself the price of copper is easy to determine, this morning it was $3.22 a pound, but how do you value something as rare as the Partridge or Embarrass Rivers? And then think about the $1 Billion cleanup cost for the TVA ash spill of 2008 into the Emory River in Eastern TN, and hold your ground. (And, by-the-way, if they do agree, you've probably set it too low.)

Second: Get cash in the bank. Don't take their IOU.

Polymet is one of 2,000 Jr. Miners listed on the Toronto Stock exchange. These are start-up business and most will not make it. No bank would lend money to any of these miners, including Polymet, but if they did, they would require a huge risk premium. The state should get a risk premium too. As of 10/31/13, Polymet had $41M in the bank and was burning through it. They have no income from other sources; they have never permitted or developed a mine; they have no experience operating a mine; they have no experience with the pollution abatement technology proposed; they have no experience in mine reclamation. AND this is a mine that will have AD. (acid drainage) This project is a bad bet for the State of Minnesota and if Polymet messes up they're judgment proof. In other words, they have no deep pockets to go after. The tax payers will be left holding the bag. A better bet would be to deal directly with GlencoreXstrata, Polymet's primary owner who will take over the project as soon as all permits are signed, according to the Wall Street research firm Stifel Nicolaus. But don't expect GlencoreXstrata to stick around either; according to the London Financial Times they are selling all their start up (Greenfield) operations and focusing their investments on operating mines. This is tricky. If the State of Minnesota doesn't want to be left holding the bag they'll have to be very smart in how they structure this deal and how much they get in an iron clad financial assurance. I.e. cash. Which brings us to….

Third. Hire Sharks.

If the permitting on this mine gets to the financial assurance stage, the State will be working with attorneys for the mining companies who do this all day long. The State better be sure they have counsel equally adroit or be prepared to be sorely disappointed when something does go wrong and a loop-hole prevents paying up necessitating a long and costly legal fight, and an ongoing polluting mess. Remember, mining companies are not angels; they are not here to help us; they will fight to keep every liability off their books and their cash in their accounts.

Finally, the State of Minnesota needs to access its political fortitude. Do our regulatory agencies have the guts to shut down a polluting mine and put people out of work? In my research I have not found a single instance in the US of a mine being shut down by the regulatory agencies empowered to protect us. Mines are allowed to continue to pollute as the regulatory agencies take years issuing: Verbal notifications: Inspection reports: letters of warning: Notices of violation: Field citations: Schedules of compliance: Administrative orders: Administrative penalty orders: Stipulation agreements: and Consent orders. All the while the pollution continues. The State's greatest leverage is now during the permitting process. Once a mine is operational the leverage moves to the mining company.

I have a counter proposal:

If the State believes taking on all the environmental and financial risks associated with this mine is worth the $15m/year in increased projected tax revenues (as stated in Polymet's sales presentation of 2/14), why not simply sell the water the state is willing to pollute to the North Dakota frack oil drillers? Water is in high demand in N.D. and higher yet further west. Our water is valuable and renewable. If we are really willing to pollute our cleanest asset, perhaps we should consider selling our water, not our copper. Thank you,

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