

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

**DECLARATION OF
PAULA G. MACCABEE**

State of Minnesota)
) ss.
County of Ramsey)

I, Paula G. Maccabee, hereby declare as follows:

1. I am an attorney licensed in Minnesota and I represent WaterLegacy in the above-captioned matter.

2. Pursuant to the Court's Order of September 9, 2019 and the Court's direction at the September 16, 2019 Discovery Conference, I searched for documents in WaterLegacy's possession that might be probative or exculpatory of Relators'¹ alleged procedural irregularities.

3. On behalf of WaterLegacy, I collected documents received from the Minnesota Pollution Control Agency ("MPCA") under the Minnesota Data Practices Act; documents received from the U.S. Environmental Protection Agency ("EPA") under the Freedom of Information Act ("FOIA") and pursuant to litigation under the FOIA; documents downloaded from MPCA's website and saved in files for other MPCA NPDES permits; documents filed with state and federal

¹ "Relators" in this document also include the Fond du Lac Band of Lake Superior Chippewa, Minnesota Center for Environmental Advocacy, Center for Biological Diversity, and Friends of the Boundary Waters Wilderness.

courts; complaints to the EPA Office of the Inspector General; MPCA's public statements and press reports; and documents showing how WaterLegacy secured various documents, including documents that may be needed to provide foundation for admissibility.

4. WaterLegacy worked with other Relators to upload responsive documents and to provide Bates numbers for each document.

5. WaterLegacy reviewed documents individually and worked with other Relators to segregate documents that were responsive to each Request for Production made to Relators; to segregate documents responsive to each Written Deposition Question MPCA propounded to Relators; and to identify segregated documents by Bates numbers in individual exhibits that would respond to each Question asked by MPCA for its Rule 30.02 style deposition of Relators' designee.

6. On October 16, 2019, Relators' designee sat for the Rule 30.02 style deposition. Relators' designee provided the separate exhibit prepared for each Written Deposition Question listing by Bates numbers the documents responsive to that question. Relators' designee also testified that, based on the information Relators currently possess and understanding that discovery and investigation were ongoing, the document lists were responsive to the corresponding question.

7. WaterLegacy worked with other Relators to prepare a combined privilege log, which listed documents that were within the scope of discovery.

8. WaterLegacy did not include documents on the privilege log that were outside the scope of discovery as determined by the Court. On information and belief, neither did other Relators.

9. Relators' combined privilege log withheld twenty-one documents, none of which were withheld on the basis of sovereign immunity, all of which included information regarding a confidential source, and two of which included attorney work product and attorney client privilege.

I declare under penalty of perjury that everything that I have stated in this document is true and correct.

Dated: November 8, 2019

/s/ Paula G. Maccabee
PAULA G. MACCABEE