

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

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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  
ELISE L. LARSON IN SUPPORT  
OF MOTION *IN LIMINE* FOR  
SPOILIATION SANCTION**

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State of Minnesota     )  
  ) ss.  
County of Ramsey     )

I, Elise L. Larson, hereby declare as follows:

1. I am an attorney licensed in Minnesota and am employed by Minnesota Center for Environmental Advocacy (“MCEA”) as a Staff Attorney.
2. In the above-captioned matter, I represent Relators MCEA, Friends of the Boundary Waters Wilderness, and Center for Biological Diversity.
3. MCEA, Friends of the Boundary Waters Wilderness, Center for Biological Diversity, WaterLegacy and the Fond du Lac Band of Lake Superior Chippewa (collectively, “Relators”) are the Relators in the above-captioned matter.
4. During discovery in the above-named matter, Relators learned that Respondent Minnesota Pollution Control Agency (“MPCA”) had destroyed certain documents and that the timing for a litigation hold may be relevant to determining the procedural irregularities at issue.

5. During a November 11, 2019 Meet and Confer, Relators asked MPCA's counsel to provide information regarding the litigation hold. MPCA's counsel indicated he did not have the information.

6. MCEA's paralegal Eric Lindberg submitted a Minnesota Government Data Practices Act Request ("DPA) to MPCA on November 14, 2019. A true and correct copy of MCEA's DPA request, as provided by MPCA on December 17, 2019, is attached as **Exhibit A**.

7. MCEA's DPA request stated:

I request, pursuant to the MGDPA, Minn. Stat. s. 13.03 that the Department make available the following: any and all litigation hold notices and subsequent documents (e.g. litigation hold letters, notices, emails, memoranda, and acknowledgment of litigation hold letters, notices, emails, memoranda by MPCA staff, etc.) related to the PolyMet Northmet project, and, in particular, all litigation holds and subsequent documents related to the PolyMet NPDES Permit MN0071013.

8. On December 17, 2019, MPCA responded to MCEA's DPA request. MPCA's email stated: "The above is what we have in response to your request." The response included a forwarded email from June 26, 2019 from Adonis Neblett to MPCA Staff. A true and correct copy of the correspondence responding to MCEA's DPA request is attached as **Exhibit B**.

9. MPCA also attached two PDF files. The first, MPCA's DPA request (**Exhibit A**) and the second, a form dated November 27, 2019 indicating a litigation hold needed to be placed on data from Rebecca Flood, Ann Foss, Shannon Lotthammer, and John L. Stine. A true and correct copy of the second form is attached as **Exhibit C**.

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

Dated: 12/27/2019

/s/ Elise Larson  
ELISE LARSON











