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August 28, 2019

***Via E-filing***

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**Re: *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, Ramsey County Court File No. 62-CV-19-4626***

**Relators' Objections to Respondent Minnesota Pollution Control Agency ("MPCA")'s Requests For Production of Documents And Written Deposition Questions**

Dear Counsel:

Relators' counsel write, pursuant to the order of the Ramsey County District Court, the Honorable John H. Guthmann presiding (the "Order"), to inform you of Relators' objections to MPCA's requests for production of documents and written deposition questions.

Based on the Court's Order, the nature and scope of MPCA's discovery exceeds the scope permitted by the Court.

As the Court indicated, the scope of your discovery is for the limited purpose of avoiding ambush and surprise at the Evidentiary Hearing. Rule 16 Conference Transcript of Proceedings, August 7, 2019 ("Hearing Tr.") at 115:13-21. Questions regarding confidential sources of information are outside the scope of discovery in this matter, *id.* at 115:7-8, as are questions asking from where Relators received documents. *Id.* at 114:19-21. Indeed, the Court made clear that the scope of MPCA's discovery did not extend to questions regarding Relators' conduct, but only to "question[s] of possession, of evidence that might be used at the hearing." *Id.* at 112:18-20.

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With that scope in mind, the Court permitted MPCA 25 requests for production of documents and 25 written deposition questions. *Id.* at 115:13-16. The Court did not permit interrogatory questions. *Id.* at 99:1-2.

Further, the Court indicated that Relators were to inform MPCA of their objections to the discovery request by August 28, 2019. *Id.* at 115:22 (referencing schedule regarding Relators' discovery requests), 99:14-23. If Relators and MPCA are unable to resolve any disagreements regarding our objections by September 4, 2019, we are to schedule a conference with the Court. *Id.* at 99:24-100:6. We are not to answer your discovery requests until after these objections have been resolved. *Id.* at 100:7-10. Thus, pursuant to the Court's Order, Relators will not answer any of MPCA's discovery requests until after the following objections are resolved by mutual agreement or by court order.

#### 1. Preliminary Statement

First, while Relators understand that the Court has declared that the Minnesota Rules of Civil Procedure do not govern this proceeding, Relators assume that where the Court made reference to provisions of the Minnesota Rules of Civil Procedure, the Court meant for such references to be interpreted as they would be under the Minnesota Rules of Civil Procedure. Indeed, the Court styled the August 7, 2019 Hearing as a Rule 16 Conference. Thus, except to the extent the Rules are inconsistent with the Court's Order, the Court's Order is understood to incorporate the concepts and definitions of the Minnesota Rules of Civil Procedure regarding requests for production of documents, depositions upon written questions, and objections to discovery requests.

The responses set forth herein are based on information currently known by the Relators and their attorneys. Discovery has not yet commenced. Prior to bringing the Motion to Transfer, Relators only had information regarding MPCA's procedural irregularities via litigation regarding Freedom of Information Act requests, Minnesota Government Data Practices Act requests, and leaks from concerned, anonymous sources.

As discovery progresses, Relators will supplement their responses to MPCA's Requests for Production of Documents ("Requests") accordingly. Depositions, however, are not continuing in nature, but rather elicit a witness's testimony before a court reporter. Minn. R. Civ. P. 31.02.

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## 2. Objections to Requests for Production of Documents

Subject to and without waiving the foregoing, Relators' objections to MPCA's Requests are as follows.<sup>1</sup>

**Request No. 1:** Produce all documents regarding any Procedural Irregularities in the NPDES Permit that are alleged by Relators.

**Objections:** Relators object to this Request to the extent it is unduly burdensome, seeks documents that are not in Relators' possession or control and/or documents that are within the possession or control of MPCA, and seeks documents that are subject to the attorney-client and/or joint defense/common interest privilege, the work product doctrine, and/or protections afforded trial preparation materials. Relators further object to this Request to the extent it seeks documents excluded from discovery by the Court's Order allowing discovery only of documents reflecting irregularities while excluding from the scope of discovery information on where Relators received documents, *see* Hearing Tr. at 114:19-21, and excluding from the scope of discovery the identity of any confidential sources and/or the source of any document revealed to Relators from any such confidential source. *Id.* at 115:7-8. Further, Relators object to providing a privilege log to the extent it will directly or indirectly divulge any such confidential source. Relators also object that this Request is premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing, Relators will produce non-privileged, responsive documents in their possession at a time and place to be determined by stipulation or court order, no later than 30 days from the date which all objections are resolved.

**Request No. 2:** Produce all documents regarding any allegation by Relators that MPCA violated any statute, regulation, rule, or policy in relation to the NPDES Permit.

**Objections:** Relators object to this Request to the extent it is unduly burdensome, is duplicative of Request No. 1, seeks documents that are not in Relators' possession or control and/or documents that are within the possession or control of MPCA, and seeks documents that are subject to the attorney-client and/or joint defense/common interest privilege, the work product doctrine, and/or protections afforded trial preparation materials. Relators further object to this Request to the extent it seeks documents excluded from discovery by the Court's Order allowing discovery only of documents reflecting irregularities while excluding from the scope of discovery information on where Relators received documents, *see* Hearing Tr. at 114:19-21, and excluding from the scope of discovery the identity of any confidential sources and/or the source of any document revealed

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<sup>1</sup> The Fond du Lac Band of Lake Superior Chippewa is a governmental entity and also reserves the right to assert privileges based on deliberative process and/or immunities to the extent they become applicable.

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to Relators from any such confidential source. *Id.* at 115:7-8. Relators also object that this Request is premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing, Relators will produce non-privileged, responsive documents in their possession at a time and place to be determined by stipulation or court order, no later than 30 days from the date which all objections are resolved.

**Request No. 3:** Produce all documents that Relators allege were improperly excluded from the administrative record for the NPDES Permit.

**Objections:** Relators object to this Request to the extent it is unduly burdensome, is duplicative of Requests Nos. 1 and 2, seeks documents that are not in Relators' possession or control and/or documents that are within the possession or control of MPCA and documents which may have been discarded by MPCA, which MPCA has failed to produce in response to Minnesota Government Data Practices Act Requests, or which MPCA has asked not be provided to MPCA in written form. Finally, this request is premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing, Relators will produce non-privileged, responsive documents in their possession at a time and place to be determined by stipulation or court order, no later than 30 days from the date which all objections are resolved.

**Request No. 4:** Produce all documents regarding Relators' allegation that MPCA failed to act with truthfulness, accuracy, disclosure, or candor in connection with the NPDES Permit.

**Objections:** Relators object to this Request to the extent it is unduly burdensome, is duplicative of Requests Nos. 1, 2, and 3, seeks documents that are not in Relators' possession or control and/or documents that are within the possession or control of MPCA, and seeks documents that are privileged attorney client communications, and/or protected by the work product doctrine. Relators further object to this Request to the extent it seeks documents excluded from discovery by the Court's Order allowing discovery only of documents reflecting irregularities while excluding from the scope of discovery information on where Relators received documents, *see* Hearing Tr. at 114:19-21, and excluding from the scope of discovery the identity of any confidential sources and/or the source of any document revealed to Relators from any such confidential source. *Id.* at 115:7-8. Further, Relators will not indirectly divulge any such confidential source via a privilege log. Relators also object that this Request is premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing, Relators will produce non-privileged, responsive documents in their possession at a time and place to be determined by stipulation or court order, no later than 30 days from the date which all objections are resolved.

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**Request No. 5:** Produce all documents that Relators may seek to introduce at the Hearing, regardless of the purpose of such use.

**Objection:** Relators object to this Request to the extent it seeks to impose a greater burden on Relators than would be found under the Minnesota Rules of Civil Procedure. Relators also object that this Request is premature, especially considering that discovery has not yet commenced. Relators further object to this Request to the extent it is duplicative of Requests Nos. 1, 2, 3, and 4.

Relators propose that all parties exchange exhibit lists prior to the Evidentiary Hearing at a time and place determined by stipulation and/or court order. Further, Relators reserve the right to amend or supplement their exhibit list, or otherwise introduce evidence at the Evidentiary Hearing not on the exhibit list, due to the fact that while discovery is limited prior to the Evidentiary Hearing, Relators reserve their right to continue efforts to obtain evidence relating to MPCA's procedural irregularities, and also reserve their right to introduce new documents at the Evidentiary Hearing in response to testimony of witnesses.

**Request No. 6:** Produce all documents that in any way support Relators' responses to any of the written deposition questions set forth below.

**Objections:** Relators object to this Request to the extent it is vague, as the phrase "in any way support" is open to multiple interpretations, is unduly burdensome, seeks documents that are within the possession or control of MPCA, and seeks documents that are privileged attorney client communications, and/or protected by the work product doctrine. Relators further object to this Request to the extent it seeks documents excluded from discovery by the Court's Order allowing discovery only of documents reflecting irregularities while excluding from the scope of discovery information on where Relators received documents, *see* Hearing Tr. at 114:19-21, and excluding from the scope of discovery the identity of any confidential sources and/or the source of any document revealed to Relators from any such confidential source. *Id.* at 115:7-8. Further, Relators will not indirectly divulge any such confidential source via a privilege log. Relators also object that this Request is premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing, Relators will produce non-privileged, responsive documents in their possession at a time and place to be determined by stipulation or court order, no later than 30 days from the date which all objections are resolved.

### 3. Objections to Written Deposition Questions

Relators object that MPCA's written deposition question fail to follow the procedure provided by Rule 31 of the Minnesota Rules of Civil Procedure. The Court was clear that interrogatories are not permitted in this matter. Hearing Tr. 99:1-2. Relators object that MPCA "written deposition questions" are not properly framed as deposition questions put to a deponent designated by Relators. Instead, these are merely interrogatories that are labeled deposition questions. They are

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not calculated to lead to discovery of factual matters related to procedural irregularities, but rather they seek the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of Relators concerning the litigation.

Further, while an interrogatory is not “objectionable merely because its answer involves an opinion or contention that relates to fact or the application of law to fact,” Minn. R. Civ. P. 33.02, there is nothing to suggest that this provision applies to written deposition questions. Indeed, the Court’s clear Order that no interrogatories are permitted indicates that this provision does not apply here. Hearing Tr. 99:1-2. And while an interrogatory is to be answered “fully in writing,” Minn. R. Civ. P. 33.01, a deposition upon written questions is to take place before an officer of the court. Minn. R. Civ. P. 31.02. MPCA has not provided notice of the deposition, and this failure leaves Relators without any indication of when, where, or before whom the deposition will occur. Minn. R. Civ. P. 31.01.

Finally, the Court indicated that the deposition is to be of Relators’ designee as would be governed by Rule 30.02. Hearing Tr. 113:5-12. MPCA’s counsel agreed to this provision. *Id.* at 112:5-6. And the scope of these questions was limited, as MPCA’s counsel suggested, to “what evidence do [Relators] have . . .” *Id.* at 111:24-25; *see also* 112:7-12 (MPCA’s counsel agreeing with Court that questions would be related to disclosing the evidence Relators have), 112:18-20 (Court stating that questions would be limited to “question[s] of possession, of what evidence might be used at the hearing”).

Relators reserve their right to “designate one or more officers, directors, or managing agents, or other persons who consent to testify on [their] behalf, and may set forth, for each person designated, the matters on which the person will testify.” Minn. R. Civ. P. 30.02(f). Once MPCA notices the time and location of the deposition, Relators will inform MPCA of their designee(s).

For the foregoing reasons, Relators object to the entirety of MPCA’s written deposition questions as improper and procedurally inadequate.

a. Specific Objections To Written Deposition Questions

Subject to and without waiving the foregoing, Relators object to the specific Written Deposition Questions (“Questions”) as follows.<sup>2</sup>

**Question No. 1:** Describe with particularity any Procedural Irregularities that Relators allege occurred regarding the NPDES Permit.

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<sup>2</sup> The Fond du Lac Band of Lake Superior Chippewa is a governmental entity and also reserves the right to assert privileges based on deliberative process and/or immunities to the extent they become applicable.

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**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 2:** Describe with particularity the basis for Relators' allegation that MPCA and/or EPA sought to prevent EPA's comments from becoming part of the administrative record for the NPDES Permit.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 3:** Describe with particularity the basis for Relators' allegation that MPCA's issuance of the NPDES Permit was based on communications or documents that are not reflected in the administrative record.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 4:** Describe with particularity the basis for Relators' allegation that MPCA sought to prevent documents or communications from being fully and fairly reviewed by the Court of Appeals.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 5:** Describe with particularity each instance in which Relators allege that MPCA failed to act with truthfulness, accuracy, disclosure, or candor in connection with the NPDES Permit.

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**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 6:** Describe with particularity each instance in which Relators allege that MPCA improperly destroyed, discarded, or failed to retain written records of communications with EPA regarding the NPDES Permit.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 7:** Describe with particularity how Relators allege that they were prejudiced by the alleged Procedural Irregularities associated with the NPDES Permit.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

**Question No. 8:** For each document that Relators allege was improperly excluded from the administrative record for the NPDES Permit, describe with particularity why Relators allege the document should be included in the administrative record.

**Objections:** Relators object to this Question to the extent it seeks an opinion or contention that relates to fact or the application of law to fact, seeks the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the Relators, exceeds the scope of questions permitted by the Court, and seeks privileged attorney client communications and/or information protected by the work product doctrine. Relators further object to this Question as premature, especially considering that discovery has not yet commenced.

Subject to and without waiving the foregoing objections, and upon sufficient notice provided by MPCA and proper written questions for a deposition, Relators will designate one or more persons to be deposed.

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Relators reserve the right to supplement, extend, or modify these objections.

In keeping with the Court's Order, Relators propose a telephonic meet-and-confer on Tuesday, September 3, starting at 10 a.m. central time, during which call Relators will make a good faith effort to resolve the above objections. Please advise, via email, your availability for such a call.

Portions of the hearing transcript cited in this document are attached for your convenience.

*[signature blocks on following page]*

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Dated: August 28, 2019

**MASLON LLP**

/s/ Evan A. Nelson

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1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

3 \*\*\*\*\*

4 In the Matter of the Denial  
5 of Contested Case Hearing Requests  
6 and Issuance of National Pollutant  
7 Discharge Elimination System / State  
8 Disposal System, Permit No. MN0071013  
9 for the Proposed NorthMet Project,  
10 St. Louis County, Hoyt Lakes,  
11 Babbitt, Minnesota.

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RULE 16 CONFERENCE

16

TRANSCRIPT OF PROCEEDINGS

17

18 The above-entitled Rule 16 Conference came on  
19 for hearing on Wednesday, the 7th day of August, 2019,  
20 before the Honorable John H. Guthmann, District Court  
21 Judge, at the Ramsey County Courthouse, City of St. Paul,  
22 State of Minnesota.

23

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25 REPORTED BY: Lori Morrow, RMR, CRR, CLR, CBC

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1           There will be no depositions, and there will be  
2 no interrogatories. But I am going to permit written  
3 deposition questions directed to a limited group of  
4 people with the PCA. I am going to permit each of those  
5 persons to be asked up to 25 questions, including  
6 subparts, whether those subparts are numbered or not. I  
7 say that because I've been in your shoes before writing  
8 stuff like this.

9           Relators will have two weeks to provide the  
10 proposed written deposition questions for each witness to  
11 Respondents. That's no later than August 21 at 4:30.  
12 Don't file it with the court. Just give it to each  
13 other.

14           Respondents will have one week to object to the  
15 questions as beyond the scope of what I've permitted.  
16 The scope of what I'm permitting is limited solely to the  
17 alleged procedural irregularities. So if the questions  
18 don't relate to the discovery of alleged procedural  
19 irregularities, then there's a basis to object. If the  
20 questions, including subparts, whether separately  
21 numbered or not, are in excess of 25, that's a reason to  
22 object. So any objections within a week, that would be  
23 August 28 at 4:30, don't file it.

24           If the objections cannot be resolved in a week,  
25 which is September 4, you can schedule an informal

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1 conference with me as provided for in the Rules of  
2 General Practice 15.10. I ordinarily do those off the  
3 record. If someone wants it on the record, we can do it.  
4 All I want in advance of that conference is whatever it  
5 is you're disputing and why, which I'll want in a letter  
6 no longer than three pages from each of you.

7           Once any dispute is resolved or once you agree  
8 on the written deposition questions, assuming there's  
9 no -- if there is no dispute, then the PCA will have 30  
10 days to respond. So I anticipate that even if there is a  
11 dispute sometime in the first half of October, those  
12 written questions will have been responded to.

13           I will also permit Relators to make 25 document  
14 requests to the Minnesota Pollution Control Agency on the  
15 same schedule as the written depositions. Present,  
16 object, try to resolve, and, if you can't resolve, a Rule  
17 15.10 conference with the court. I'll rule right at the  
18 conference on those objections, and then the clock starts  
19 running on 30 days to respond.

20           I'm also going to permit 25 document requests  
21 and 25 written deposition questions to a single PolyMet  
22 corporate representative. And I'm thinking of a 30.02  
23 kind of standard, solely limited to information that  
24 PolyMet may have that relates to the alleged procedural  
25 irregularities involving the Pollution Control Agency and

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1 efforts. There aren't that many questions to be asked.  
2 The parties have extensively briefed their positions to  
3 the court of appeals. And I think that the parties have  
4 probably rather clearly articulated in their own heads  
5 what they need on numerous occasions over the last six  
6 months to a year with regard to this case. So I'm going  
7 to leave the deadlines as I've indicated.

8 MR. MARTIN: Your Honor, one of my colleagues  
9 just pointed out that at least so far you haven't talked  
10 about what discovery we at MPCA and perhaps at PolyMet  
11 might have of the Relators. May we have something akin  
12 to what you've allowed and specific --

13 THE COURT: What do you want? I didn't give  
14 you any or suggest any because of the way you've argued  
15 the case to me.

16 MR. MARTIN: Well, and your Honor, I think  
17 that --

18 THE COURT: I won't elaborate, but you know  
19 what I mean.

20 MR. MARTIN: I know what you mean. That sounds  
21 like my daughter now.

22 THE COURT: Only I get to make kid analogies.

23 MR. MARTIN: Yeah. Okay.

24 But, you know, here is, for example, a question  
25 that we might ask. You know, what evidence do you have

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1 that EPA had suppressed its comments? And I'm talking  
2 now. Obviously, there would be subparts of that. And if  
3 there is evidence like that, I think it's incumbent upon  
4 them to give it to us. And thinking about your Honor's  
5 order, it strikes me that the 30.02 sort of questions  
6 might make the most sense.

7 THE COURT: So you're thinking about a list of  
8 up to 25 questions of the Relators as a group --

9 MR. MARTIN: I think so.

10 THE COURT: -- asking them to disclose what  
11 they have to make sure that you're not going to be  
12 surprised?

13 MR. MARTIN: Exactly, your Honor.

14 THE COURT: What do you think, Relators?

15 MS. MACCABEE: Two things. Number one,  
16 Relators' conduct is not at issue and the Court -- gave  
17 the Court absolutely --

18 THE COURT: It's not a question of conduct.  
19 It's a question of possession, of evidence that might be  
20 used at the hearing. And by the way, if you had been  
21 granted the discovery you wanted, that means that the  
22 Respondents could have deposed all your clients, because  
23 that's what you wanted. You wanted the rules to apply.  
24 If the rules applied, they would get full, unfettered  
25 discovery, because there wouldn't be any basis to limit

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1 it to one set of parties, right?

2 MS. MACCABEE: Your Honor, I would like to give  
3 an opportunity for Ms. Ray-Hodge to speak.

4 MS. RAY-HODGE: Vanessa Ray-Hodge again,  
5 attorney for the Band.

6 I think we need to know with specificity as  
7 well who those individuals are that MPCA and/or PolyMet  
8 would be asking to ask deposition questions to --

9 THE COURT: I think what is being suggested  
10 here is a set of up to 25 questions and document requests  
11 to -- in the philosophy of Rule 30.02 to the Relators as  
12 a whole.

13 MS. RAY-HODGE: Okay.

14 THE COURT: What documents do you have that you  
15 feel prove that there were procedural irregularities  
16 might be one of the questions that they ask.

17 MS. RAY-HODGE: Right. And I would only say  
18 that, you know, one of the concerns that we may have,  
19 depending on what they're asking, could relate to  
20 confidential sources that we're not able to disclose  
21 where we've received some of this information from. For  
22 example --

23 THE COURT: That may or may not be the  
24 question --

25 MS. RAY-HODGE: Right.

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1 THE COURT: -- because I would likely require  
2 you to produce all documents that you plan to offer at  
3 the hearing --

4 MS. RAY-HODGE: Absolutely.

5 THE COURT: -- sometime in advance. So that's  
6 what they're looking for. They want to know before the  
7 date of the hearing and the witness starts testifying  
8 what you've got.

9 MS. RAY-HODGE: Right. And most of what we've  
10 gotten is from them --

11 THE COURT: It's what you want from them,  
12 right?

13 MS. RAY-HODGE: Exactly. And we're happy to  
14 share the documents we have. It's just -- if it gets  
15 into issues that relate to confidential sources and  
16 information that is meant to be kept confidential, we may  
17 have some other issues that we will need to come to you  
18 about. That's all I just wanted to raise.

19 THE COURT: And, Mr. Martin, you're not  
20 intending to ask them where they got it. You just want  
21 to know if they've got it?

22 MR. MARTIN: Well, and, you know, I really  
23 believe that your Honor has laid out a procedure where  
24 these sorts of issues can be addressed. And, you know, I  
25 recognize that Ms. Hodge --

## ATTACHMENT

1 MS. RAY-HODGE: Ray-Hodge.

2 MR. MARTIN: I'm sorry, Ray-Hodge. I  
3 apologize. Ms. Ray-Hodge makes the point that we could  
4 ask a deposition question that's objectionable, and I  
5 think the procedure that you have laid out would address  
6 those sorts of things.

7 THE COURT: And I'm not going to make them give  
8 up their sources, so, you know, you know that now. They  
9 are going to still have to establish admissibility at the  
10 hearing, but that doesn't necessarily require someone to  
11 give up their source. Okay?

12 MR. MARTIN: I understand, your Honor.

13 THE COURT: All right. I'm going to permit a  
14 Rule 30.02 style set of 25 document requests and 25  
15 written depositions to be directed to the Relators as a  
16 whole. So a question to one Relator applies to all. And  
17 this is strictly for the limited purpose of -- the same  
18 due process purpose that is behind the discovery that the  
19 court permitted of the Relators -- by the Relators  
20 towards the Respondents, that is, the lack of litigation  
21 by ambush and surprise.

22 Same schedule. Everything is the same.

23 Any other questions or concerns?

24 MR. PORETTI: Just a housekeeping.

25 THE COURT: Name.