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[EPA's Ken Westlake Explains Very Negative Environmental Rating For Polymet Mine Project](#)

March 18, 2010

One more Polymet mine witness—Ken Westlake from the EPA.

By Craig Stellmacher

Did 12 hours of Senate Environmental Committee Hearing help progress in the Polymet Mine Project? If you're a booster—this progress must seem glacial. This plan was studied for years with \$20 million dollars, while out of work miners, and businesses on the Iron Range agonize over the beaurocracy and lawmakers that question the project. At the start of the hearings, Senator Jim Carlson's financial assurance bill requiring mining companies to pay for any environmental cleanup from the mines was before the Senate last week. "If it had passed—it would have held up the project"—many claimed.

Green groups meanwhile, can't believe the project is so close to the Boundary Waters Canoe Area. Doesn't this mine threaten the park? An area they visit once a year, or have only read about. Will it hurt the water? Isn't it right next to an existing mine? Why did Wisconsin ban Sulfide mining?

How to make this decision? It's not just about jobs, or the environment. I first encountered the Mine Project while covering Democrat Governor candidates for [TheUptake.org](#). I had repeated conversations with Senator Tom Bakk and Representative Tom Rukavina. Rukavina, poked me the most. He couldn't walk by me without teasing me : "Where did the metal for you camera come from?"

Senator Bakk spoke to me of a vision of a more complex and complete economy up north where these raw materials would be harvested from the ground and turned into finished products. It would make for a much more complex and stable economy to do it here in Minnesota. And he adds that there wouldn't be the wasted energy of shipping these materials elsewhere to be finished into products.

Representative Rukavina, wants jobs, jobs and jobs. He gets misty recounting the history of the Iron Range too, rightly claiming it helped to build not just Minnesota but America. He also has a green anti-NIMBY argument : "You know we'd just leave it on the ground in some other country, let's do it here, and do it right!" Over time, he wore me down...

But, I also had more questions. The first place to look, is the 1,500 page DEIS, or Draft Environmental Impact Statement itself, and here it is : [Draft EIS](#) 714 pages, with 847 page appendix and diagrams. Or instead you could give a look to the diagrams and the summary here : [Summary pdf 27 pages](#). Here are some of the diagrams I used in the video : [Diagrams from DEIS shown in this video](#).

When the 1,500 page report was released last fall, politicians stood in line to endorse it. You might assume it was Republicans, but they couldn't get to the microphone before all the Democrats from the Iron Range. At the Blaine DEIS unveiling Senators David Tomassoni and Tom Bakk, and Representative Tom Rukavina all claimed the project was "in their district" to laughs. If they couldn't attend, they sent [letters](#) [Minnesota Politicians Endorse the PolyMet Mine](#).

What's the problem—we've mined Minnesota for years—maybe 13,000 years even?

With this mine—we dig into rock that has sulfur in it—that is the only key difference. In fact, if it didn't have sulfur in it, it wouldn't be in the news, or attracting the attention of [Legislators](#), [Politicians](#), [Unions](#), [Mining Associations](#), [Chambers of Commerce](#), [Tribes](#), and [Environmental Activists](#).

Why does the sulfur matter so much?

When exposed to air, water and bacteria, sulfur forms sulfuric acid. Not only can it drastically change the pH of a water system, it tends to liberate heavy metals out of the rock and into the water such as mercury. This runoff, is known as AMD/ARD or [Acid Mine Drainage/Acid Rock Drainage](#).

Serious study was made of what to do by the company Polymet, the Minnesota DNR, The US Army Corps of Engineers, The EPA, Three Ojibwe Tribes and others. A DEIS was issued last [fall](#), and at that point more than \$20 million had been spent on that report alone. With land investment, and other financial costs, Polymet has bet serious money on digging in the ground just south of the working Peter Mitchell Mine in northern Minnesota.

If you would like to survey this land from space "[Babbitt MN](#)", the Polymet Mine site is just to the south of the working open-pit Peter Mitchell Mine south of center. The Polymet Mine site, is the area in green just south of Peter-Mitchel, and it is surrounded by roads. Peter Mitchell, is in different rock, part of the Green Shield, and just south of it is "[Gabbro Complex](#)" which has many valuable metals—copper, nickel, gold—and sulfur. The area in bright pink, just to the southwest of center, is the Tailings Pit at the LTV Processing Plant, 6 miles to the west of the mine.

Abandoned for years, Polymet hopes to take advantage of this industrial site to both process the rock into metals, but also dispose of their tailings in the existing tailings pond. (That appears bright pink, and may be a false color due to it being a satellite image.) Not seen yet at this scale, are two rivers that flow towards the southwest, the Embarrass on the northside and the Partridge on the southside of the mine, that will be described at length in both the DEIS and the EPA letter.

All water from the mine site, drains into the St Louis River system, and will end up in Lake Superior. There are elevated levels of mercury in these rivers now.

Last week, we had three Minnesota Senate Environmental Committee Hearings, chaired by Senator Satveer Chaudhary. One of the topics was financial assurance, basically a binding agreement that the mining company will pay for cleaning up and closing the mine when it is finished. Financial assurance isn't too popular with mining interests. Senator Kelash attacked those who wanted more assurance—"How could you question the financial assurance judgement

of the state?!” [Senator Jim Carlson introduced his bill](#), at the first of three hearings, and he repeatedly came back. It was a bit of a surprise, when at the end of the week and twelve hours of hearings he withdrew his bill. Carlson was always : “Pro-Mining and he didn’t want to inhibit development”. Meanwhile, at times Senators Ellen Anderson and Scott Dibble seemed to be even stronger supporters of his bill; they kept referring to a very critical EPA letter that had given the project the EPA’s lowest possible rating. It was unlikely to move forward with this rating, and one of the criticisms in the EPA letter was ironically lack of financial assurance.

When it was over, several Senators said “it just didn’t have the votes”. But this left several open questions, like what would happen next, could the Army Corps of Engineers still issue the wetlands permit so that this project could go forward despite the EPA’s “EU-3” rating?

It seemed like we needed one more witness...

So I arranged a call with Regional National Environmental Policy Act Coordinator Ken Westlake, the person responsible for the EPA letter. If you’d like to see it, here is the [EPA Letter 29 pages-pdf](#).

We had a 41 minute, recorded with his permission, phone call. I thought you might like some visuals during our long phonecall, so I put some diagrams or portions of the letter behind our phone call. I even threw in a couple BWCA photos too.

Too keep track of what was being said, and so that you might find a topic that interests you quickly, I time-stamped the conversation below. We have a 41:00 minute phone call :

0:00 Introductions.

1:00 ”I saw 12 hours of Senate Hearings this week on this issue, and I thought if there was one witness we didn’t have it was you.” ”Two Senators heavily supported your letter...”

2:00 Ken Westlake, EPA Region 5, Chief of National Environmental Policy Act Implementation, explains the EPA Interdisciplinary review, to the point of where they even sought outside advice.

3:00 The EPA also reviewed two earlier drafts.

4:15 Q : I’ve heard [EU-3] is a rare negative rating?

A: ”It is. Certainly the first time a Region 5 Project has received this rating in my 9 plus years in my current position.”

4:30 ”And I think we’ve only done 7 adverse ratings in Region 5 total, since our national data base was created in 1987.”

5:00 ”The most compelling issue from our point of view, is the admission in the Draft EIS that this project will violate state and tribal water quality standards.”

5:30 Westlake again describes the complex interdisciplinary approach they on the DEIS review, to justify this EU-3 rating.

6:15 I ask him about the adequacy of the models. (Sub-aqueous disposal of sulfide rock is a recent idea, to deny the sulfur air. It is dependent on low-aquifer movement though.)

7:45 How much sulfur is in this rock—can we compare it to the Flambeau Mine at Ladysmith Wisconsin? He doesn't have the figures with him, but what worried the EPA is that is was sufficient to liberate heavy metals.

8:00 I tell him we heard in the Minnesota Senate Hearing “there really isn't that much sulfur to worry about in our rock”.

8:15 “It's really a question of what's going to be mobilized into the environment...”—Westlake.

9:00 The reviewers were concerned about the mobilization of heavy metals such as mercury, copper, nickel and zinc.

9:30 Q: Cadmium? I ask, “I'm not sure, but cobalt yes.”

10:15 We bring up the “real-time sort” process, that was touted as a solution in the DEIS, but the EPA letter criticized as vague. Rock would be sorted into four piles, with one processed. Originally Polymet proposed disposing the most sulfur bearing rock above ground. The contractor, DNR and the Army Corps of Engineers suggested as a mitigation measure to put the highest sulfur back into a pit, and covering it with earth. This would expose it to water below the water table, but it is thought it would largely cut it off from air. It takes air and water to with the sulfur to make sulfuric acid. The mines could leach this acid, for dozens, hundreds or thousands of years. Since it takes air and water, some wonder if this kind of mining should only be done in arid environments. Other mitigations were suggested by both Polymet and the DNR such as adding limestone to neutralize the pH, and continually pumping wells and treating the water as long as necessary.

10:30 “We certainly want them to explain in much more detail how they're actually going to implement that in the field.”

11:00 “How are you actually going to assay the rock [in real-time]?”—Westlake.

11:45 How can we assure the low-sulfur rock pile, has no sulfur rock in it?

12:15 “Well and that's why we think there's a lot of detail that should have been in this document that wasn't there.”

12:30 I tell him the course of Senator Jim Carlson's Financial Assurance Bill, that was introduced early and mentioned often in the 12 hours of hearings, but then finally withdrawn.

13:45 How does the EPA feel about financial assurance?

13:50 "First of all we don't have any position on the Minnesota bill." And that is up to the state.

14:00 "Our agency is in the early stages of federal rule making, for financial assurance for the hard-rock mining industry"

14:45 What kind of financial assurance do we need to feel secure about the Northmet Project?

15:00 "Our most fundamental unhappiness on that topic, with the draft EIS is that there was almost no explanation of how financial assurance would work in the case of this project."

16:15 "[financial assurance]...ought to be included in the Environmental Impact Statement."
"...and not deferred until some permitting action."

17:15 "Understand this : Even though we gave this project a severe rating...we are very much prepared to work... to look for ways where our issues could be resolved."

18:00 "I don't know if every last issue can be resolved, we're certainly going to do our best to explore those things..."

18:45 "We want to see the water quality up there protected, and right now this project as currently proposed doesn't do that."

19:00 Tailings basin problems, often cited as an an environmental and economic plus to reuse this abandoned industrial site. But, can the tailings basin bear more weight and tailings?

20:00 "We don't have a good sense, of whether or not, the tailings basin could physically handle the additional volume and weight of the processing waste, the tailings from this new project..."

20:45 What can we do to better assess the basin? More test drillings?

21:00 "Right now as I understand it, there's only a handful monitoring wells at the tailings basin, given that there are multiple seeps right now..."

22:00 We discuss plans for more than one future mine, using this same basin. There are other mining leases that stretch in an arc to the northeast following the ore vein.

23:00 What other worries does the EPA have? A: Wetlands mitigation, 1000 acres lost due to the project. "Wetlands have a lot of important functions."

25:00 "We think there needs to be a lot more wetland mitigation."

25:30 Land-swapping for wetland mitigation is discussed.

27:30 "The Forest Service regards open pit mining as an incompatible use on that particular parcel." Land swap—not yet settled.

28:30 We discuss how three Ojibwe Tribes also have hunting, fishing and gathering rights to the land like the Forest Service, and they too would have to be satisfied with a land swap.

28:45 I tell him though, that the DNR DEIS cut out the tribe's objections, at least the tribes' spokeswoman said so.

30:00 We talk about the possibility of this ending up in the courts.

31:00 Don't we have more commitment to cleaning up Lake Superior than ever before?

31:15 Westlake, advises visiting the EPA website to look "The Great Lakes Legacy Act", and the "The Great Lakes Restoration Initiative" pages.

31:15 I show a recent webpage announcement : "Administrator Jackson Unveils Great Lakes Restoration Initiative Action Plan–2/22/2010"

32:30 I bring up mercury, and wonder if the standard might be lowered in the future.

32:45 "Minnesota already has a total maximum daily load...mercury is pretty commonly found in Minnesota surface water."

33:00 "Primarily due to air deposition." From coal? "...including coal fired power plants."

33:30 Then we spend several minutes, talking about the beauty of the Boundary Waters, and Ken Westlake says he's gone on a couple of canoe trips in it.

35:00 What happens now—with the DEIS? If we don't resubmit, does it fail? What happens then?

36:15 Westlake describes referral to the Whitehouse Council on Environmental Quality.

36:45 The Council on Environmental Quality settles disputes between federal agencies. In this case between the EPA and the Army Corps of Engineers.

37:00 CEQ, (Council on Environmental Quality) normally goes to the disagreeing parties trying to work it out.

37:45 "We're hopeful that evolution can lead to a satisfactory technical resolution of our issues. That's our goal. We're not in the project killing business—we're in the project improving business if you will. We're fully committed to working with the other agencies, and with the company to see how our issues can be resolved. And don't forget, there are over 3,700 other commenters on this project, all across the spectrum, some of which devoted substantial resources to generate their own detailed technical comments. The Corps of Engineers and the Minnesota

DNR, have to come with a game plan for how they're going to respond to all those comments."—
Ken Westlake EPA.

39:10 "We don't want to see proliferation of clean up sites from mines that were improperly designed, closed and cared for post-closure."

39:30 "We certainly feel the economic consequences of a project need to be fully considered before that project goes forward. That's the whole point of doing the EIS, that's what the National Environmental Policy Act was intended to do, to insure that Federal decision makers fully analyzed and considered environmental impacts in their federal decision making, and in this case the federal decision is the Corps of Engineers wetlands permit decision, and then also the Forest Service decision relative to a possible land swap or land sale."

There are more questions about what will happen to the Polymet Mine Project. Today, (Thursday March 18, 2010) there will be a House hearing. I was going to use parts of this phone call in a film about the Mine Project, but upon learning of today's hearing, I have decided to release the entire phone call unedited to all for your consideration.

You may wonder, if I'm against the mine project or if I'm green. The answer is, I'm on the side of Minnesota and information.

Information, will let us all make a better decision.

Craig Stellmacher

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