

Bill Storm

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Sent: Friday, January 11, 2008 3:10 PM
To: Bill.Storm@state.mn.us; richard.hargis@netl.doe.gov
Cc: Steve Rutherford; Charles Nauen; Zoll, David J.; Sherry Grossheim
Subject: Comments on Draft EIS -- Mesaba Energy Project, PUC Docket No. E6472/GS-06-668, DOE Draft EIS for the Mesaba Energy Project (DOE/EIS-0382D)
Attachments: 01-11-08 Letter to Bill Storm and Richard Hargis.pdf

Messrs. Storm and Hargis:

Attached please find the comments submitted by our clients, Steel Dynamics, Inc., Mesabi Nugget Delaware, LLC and Mesabi Mining, LLC, in connection with the Draft Environmental Impact Statement prepared in connection with the proposed Mesaba Energy Project (PUC Docket No. E6472/GS-06-668, & DOE Draft EIS for the Mesaba Energy Project (DOE/EIS-0382D)).

If you have any questions about the comments, please feel free to contact me.

Thank you.

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Re: Comments on Draft Environmental Impact Statement
Mesaba Energy Project, PUC Docket No. E6472/GS-06-668
DOE Draft Environmental Impact Statement for the Mesaba Energy Project
(DOE/EIS-0382D)

Dear Messrs. Storm and Hargis:

We represent Steel Dynamics Incorporated ("SDI") and its subsidiaries Mesabi Nugget Delaware, LLC ("MND") and Mesabi Mining, LLC ("MM"). We submit these comments regarding the Draft Environmental Impact Statement ("DEIS") for the Mesaba Energy Project.

The DEIS indicates that the proposed Mesaba Generating Station located at the East Range Site would have average process water demands of approximately 7,400 gallons per minute ("gpm") and a peak demand of 10,000 gpm. The DEIS identifies numerous mine pits located near the East Range Site as the source of the process water and indicates that Excelsior Energy, LLC ("Excelsior") will construct a permanent pumping station and pipeline to draw the process water from the Mine Pit 2 West Extension ("Pit 2WX").

The DEIS further indicates that additional process water may be drawn from up to nine other mine pits in the vicinity through a series of water intakes, pump stations, and pipelines

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connecting these mine pits with Pit 2WX. Finally, the DEIS indicates that water may be drawn from nearby Colby Lake during the spring runoff or high precipitation events and pumped into Pit 2WX to be reserved for later use. The process water sources identified in the DEIS are summarized in the following table.

Process Water Sources – East Range Site¹

Water Source	Estimated Range of Flow (gpm)	Average Annual Flow (gpm)
Mine Pit 1 Effluent	0-1,000	1,000
Mine Pit 2 East		100
Mine Pit 2 West		900
Mine Pit 2 West Extension		700
Mine Pit 3	150-450	300
Mine Pit 6		1,800
Mine Pit 9S	90-270	180
Donora Mine Pit	130-380	260
Knox Mine Pit	20-70	45
Stephens Mine Pit	190-590	390
PolyMet Mining Dewatering Operations	1,000-8,000	4,000
Colby Lake		2,900
Total Available Water		12,600

SDI, MND, and MM do not take a position regarding the technical feasibility of the network of water intakes, pumping stations, and pipelines proposed in the DEIS or whether there is sufficient water available at the East Range Site to meet the demands of the Mesaba Generating Plant. It should be noted, however, that the availability of the estimated 4,000 gpm from the PolyMet Mining Dewatering Operations is contingent upon the regulatory approval of PolyMet's proposed operations. In addition, SDI, MND and MM currently hold five water appropriation permits which allow total withdrawals of up to 46,500 gpm from the mine pits identified in the DEIS for the purpose of maintaining water levels to facilitate reclamation responsibilities.² MND and MM are in the process of completing the environmental review and

¹ See DEIS Table 2.3-5.

² Permit No. 2005-2058 allows MND and SDI to withdraw up to 5,000 gpm from Pit 1 and 5,000 gpm from Pit 2WX (as a standby source); Permit No. 2008-0326 allows MND and SDI to withdraw up to 7,500 gpm from Pit 9; Permit No. 2008-0327 allows MM and SDI to withdraw up to 4,000 gpm from Pit 6; Permit No. 2008-0328 allows MM and SDI to withdraw up to 5,000 gpm from Pit 9S; and Permit No. 2008-0329 allows MM and SDI to withdraw up to 20,000 gpm from Pit 2WX.

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permit applications necessary to resume mining operations and as part of this process, the water appropriation permits will be amended to allow withdrawals for the purpose of dewatering the mine pits to facilitate mining activities.

Assuming that it is technically feasible for Excelsior to draw the process water from the various mine pits identified in the DEIS, it is unlikely that Excelsior can obtain the requisite water appropriation permits from the Minnesota Department of Natural Resources. An applicant for a water appropriation permit must submit written evidence of its ownership, control, or license to use, the land abutting the surface water source from which the water will be appropriated. Minn. R. 6115.0660 subp. 2. Excelsior does not own the land abutting any of the potential process water sources identified in the DEIS. Accordingly, Excelsior is precluded, as a matter of law, from drawing its process water from the mine pits unless it has negotiated agreements with the landowners granting it the right to use or control the abutting land.

In addition, all of the water pipelines identified in Figure 2.3-7 of the DEIS traverse property which is not owned by Excelsior. As a result, Excelsior must obtain easements for the construction and operation of the pipelines and associated facilities before drawing any process water from the mine pits. There is no indication in the DEIS that Excelsior has obtained, or reasonably could obtain, such easements; casting significant doubt on its ability to draw its process water from the mine pits. Indeed, a majority of the proposed water pipelines, including the pipeline which would connect Pit 2WX and the East Range Site, cross property owned by MMD. As of the date of these comments, Excelsior has not approached MMD to discuss its plans to construct the pipelines and associated facilities on MMD's property.

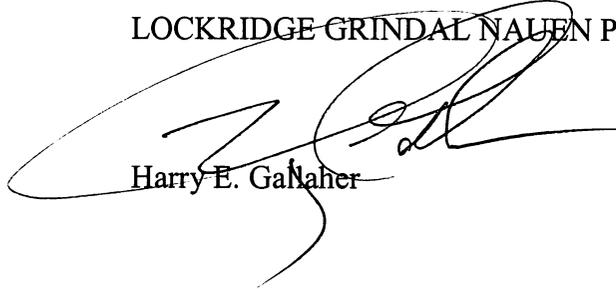
In light of the foregoing, the mine pits identified in the DEIS may not be viable process water sources. Accordingly, the final EIS should (1) identify alternative process water sources; (2) analyze the potential environmental impacts of drawing all of the process water from Colby Lake; and/or (3) identify the leases, licenses, easements, or other property rights which provide Excelsior with the legal right to appropriate the water from the mine pits and to transport such water to the East Range Site. Moreover, when the concerns related to process water supply are considered in conjunction with the factors identified in Section 2.1.2.1 of the DEIS, it is apparent that Excelsior's preferred West Range Site provides a superior location for the proposed facility.

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Thank you for the opportunity to comment on the DEIS.

Very truly yours,

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