



LATEST NEWS

IMPORTANT READ:

The Journal of the American Medical Association coming forward with important information about Carbon Capture and Sequestration. **Health and Safety Risks of Carbon Capture and Storage** - 52 KB pdf

Journal of the American Medical Association [JAMA] (pg. 67) January 6, 2010; By John Fogarty, MD, MPH and Michael McCally, MD, PhD

FINAL EIS Comments

Comments submitted by the **CAMP** volunteers can be found here: **FEIS Comments**

Click on the links below to view comments submitted by the **Minnesota Pollution Control Agency, Minnesota Department of Natural Resources** and the **Fond du Lac Band of Lake Superior Chippewa**.

Comments by MPCA
Comments by DNR
Comments by Fond du Lac

FINAL EIS RELEASED

The following files are large documents and have been made available to the public. The files can also be found at:

<http://www.gc.energy.gov/NEPA/1167.htm>.

The volumes have been broken down into smaller pdf files for download. Please see the **Take Action** page.

Volume 1 - 24 MB pdf
Volume 2 - 117 MB pdf
Volume 3 - 57 MB pdf

EIS Delays

Sometime in November 2009
October 2009
September 2009
August 2009
July 2009
June 2009
April 2009
February 2009
August 2008
March 2008

The current scheduled release can be found on the Department of Energy's website - <http://www.eh.doe.gov/nepa/>

CLEAN COAL EXPOSED BY REALITY CAMPAIGN

Please check out the TV ads on "Clean Coal" by the Reality Campaign. **CAMP** is pleased to finally see a national campaign on the myth of "clean coal". The link provided brings you to the Reality Campaign's website where you can view video

<http://www.camp-site.info/>

CAMP UPDATES

CAMP UPDATE

June 21, 2013

IS THIS THE WAY THE MEP ENDS, NOT WITH A BANG BUT A WHIMPER? Walking Away from \$9.15 Million Debt With Impunity

IRRRB Commissioner Tony Sertich is proposing a subterfuge apparently designed to quietly close the door on the Mesaba Energy Project in order to minimize embarrassment for the agency and for Excelsior Energy and its principals, Tom Micheletti and Julie Jorgensen. Sertich has asked the Board's "blessing" for his proposed "restructuring" of the agency's loan agreements with Excelsior. Under this plan, Excelsior would never have to make any more payments on the outstanding principal of \$9.15 million, or on more than \$10 million accumulated interest.

Sertich Memo

Sertich's memo states (misspelling of project as "Mesabi" in original):

This proposal does four things:

1. It permits for a change of scope of the project to allow for energy sources other than coal to be developed (i.e. Natural Gas, Biomass, etc.).
2. Defers any yearly repayments but maintains the interest calculated at 3% per annum.
3. It provides that if a project is built by 2019, Excelsior will pay \$1 million annual payments on the first anniversary of operation to the IRRRB until the loans--currently at \$9.15 million--are paid in full.
4. It also provides that if a project is not built by 2019, the IRRRB will have an option to take over all the assets of Mesabi Energy Project (including permits and site) giving our agency the ability to manage any future development. If we were able to sell the project after this time, Excelsior would receive 25% of the net proceeds of a sale.

CAMP's take: This plan relieves Excelsior from any obligation to do anything more after making just three annual payments of \$100,000 toward the principal of \$9.5 million (in addition to the \$40,000 repayment required by the legislative auditor's office in 2008). Where did this \$300,000 come from? Is it a debt that the corporation owes to Micheletti and/or Jorgensen? Would it have to be repaid to them in the event the project is eventually sold, before calculating "net proceeds" or any other payment to IRRRB?

6/17/13 IRRRB Meeting

At the meeting Representatives Metsa and Bakk suggested that "net proceeds" needs to be more clearly defined so that the IRRRB recovers the principal and interest first. Representatives Dill and Anzelc questioned the appropriateness of Excelsior's sharing in any "net proceeds" in the event that the project is ultimately "repossessed" and sold by the IRRRB. Sertich explained that: the principals "have deferred payments to themselves"; and this was designed to keep them involved in the event the agency needs assistance in developing the project.

CAMP's take: No one questioned the absurdity of this explanation: an examination of Excelsior's financial statements would show that the principals paid themselves handsome salaries, at one point as much as \$300,000/year each; and if some entity wants to purchase the permit to build a power plant on the approved site (such as Minnesota Power), it would not need the assistance of incompetent "developers" who have failed to achieve anything other than this permit for \$40 million of public funds. If the IRRRB really needed assistance from Micheletti and/or Jorgensen, they should be expected to provide it in recompense for the public funds they squandered under the guise of assisting the people of the Iron Range with economic development.

Sertich asserted that the commissioner has the authority to revise the loan agreements and he does not want the Board involved in the negotiations. He also said that: no details have been finalized although the parties have "been going back and forth already"; and he would provide more details to the Board after they are worked out. He stated that if nothing is done, Excelsior will "walk away", resulting in a loss of the \$9.15 million owed.

CAMP's take: Sertich's explanation ignores the fact that under the terms of the agreements, the agency

clips of their ads, the latest being an air freshener with the name of **"Clean Coal Clean"**

Clean Coal Ads

MINNESOTA PUBLIC UTILITIES COMMISSION MAKES TWO RULINGS FAVORABLE TO CAMP

Correcting Errors in Previous Order

At its meeting on June 12th, the PUC unanimously granted **CAMP's** petition to correct erroneous information in a previous PUC order (Docket No. 07-1640). The corrections make it clear that: the DOE funding of the Mesaba Energy Project is a loan rather than a grant; and the MEP has not yet been awarded any federal loan guarantees.

Denying Excelsior's Request To Delay PUC's Final Decision on Power Purchase Agreement

In April the PUC denied Excelsior's request to indefinitely delay consideration of Phase 2 of the PPA (Docket No. 05-1993). Excelsior then filed a Petition for Reconsideration of this decision. At its meeting on June 12th, without discussion, the PUC unanimously refused to reconsider its earlier decision.

Now we are waiting for the PUC to again (3rd time's the charm?) schedule a hearing where it will decide: whether to grant Excelsior's position under Phase 2 of the PPA; and whether to set a deadline on negotiations between Excelsior and Xcel regarding Phase 1 of the PPA.

Excelsior Concedes to CAMP's Corrections in PUC's Order

In response to CAMP's Petition, Excelsior's Attorney has notified the PUC that the Order should be corrected as CAMP requested.

Starns 5/23/08 letter

CAMP seeks correction of errors in PUC Order regarding Mesaba's financial status.

CAMP has submitted a petition to the PUC to correct misstatements concerning the Mesaba Energy Project's financial position. Below is a link to the petition.

Petition to PUC - 88 KB pdf

A Letter to Governor Pawlenty from Dr. James Hansen, NASA Goddard Institute and Columbia University Earth Institute

"There is no such thing as 'clean coal'."

CAMP is posting this most extraordinary letter that concerns global warming, coal, power plants and CO2.

Letter to Governor Pawlenty - 128 KB pdf

INTERESTING READING - MORE DEFICIENCIES IN MESABA'S DEIS

CAMP has just discovered that the Minnesota Dept. of Commerce failed to timely and properly post comments received on the Draft EIS from the Army Corps of Engineers and the Environmental Protection Agency. The EPA has "environmental objections to the proposed project" and also

could: hold Excelsior to the existing agreement; if Excelsior does not conform, declare it in default and demand immediate payment of entire principal and interest; and when that is not forthcoming, get a judgment against Excelsior to take its assets now rather than waiting until 2019, as it could have done at various times during earlier defaults.

Interest Rate and Nonpayment

Sertich's memo does not make it clear that the new interest rate of 3% is a reduction from the current 5%, which was a reduction from the original 20%. (Rep. Dill revealed his ignorance of these facts at the meeting.) The interest rate was set at 20% in recognition of the risk level. In April 2007 Excelsior defaulted on the \$952,376 due as interest on the first loan. Tom Micheletti requested an extension and before it was granted, Excelsior requested and received a payout in the sum of \$2.75 million. In late July Commissioner Sandy Layman granted until the end of 2007 for the payment and said that an extension to the end of 2009 would be granted if, by the end of 2007, Excelsior achieved: either an approved power purchase agreement for 450 MWs; or a third-party equity investment of \$100 million. Neither of these things happened. In August 2007 the PUC "disapproved" the PPA that Excelsior was trying to force on Xcel Energy. In December 2008 the IRRRB postponed interest payments to 12/31/10 but refused to stop accrual of the interest, which would amount to about \$2 million per year. In December 2010 the agency: reduced the interest rate to 5%; eliminated the requirement for annual interest payments; and agreed that if Excelsior would pay off the entire principal by 12/31/17, the interest rate would be recalculated at 3% per year.

CAMP's take: Although Excelsior has failed to meet any of the stated conditions, the rate is now being reduced to 3%. Perhaps the agency thinks this doesn't matter, given that no interest payments have ever been made and likely never will be.

Principal Nonpayment and Modifications

Excelsior was supposed to pay \$800,000 per year on the principal, starting in December 2009, which it also failed to do. After repeated extensions of the due date, payment was supposed to be made by December 2010. At a non-public 8/10/10 meeting, an IRRRB committee discussed Tom Micheletti's proposed changes to the terms of the loans, and the Board rubber-stamped these amendments at its meeting on August 19th. The annual principal payment was to start in December 2010, reduced from \$800,000 to \$100,000. Excelsior paid \$100,000 in December of 2010, 2011 and 2012, in addition to the \$40,000 repayment required after an audit in 2008, for a total of \$340,000 repaid out of \$9.5 million.

CAMP's take: Given that all of the public funding has been exhausted, this \$300,000 likely came from a loan by Micheletti and/or Jorgensen to the corporation. Apparently they have decided that they are no longer going to risk their own funds, given recent adverse events: Minnesota Power indicating that it will not need any new natural gas generation before 2020; MISO terminating the agreement for connecting the project to the grid; and failure to obtain an air permit. So Excelsior's friends on the Board encouraged the commissioner to relieve them of this burden, as indicated by Rep. Dill's saying to Sertich at the meeting: "I asked you to do this."

What assets?

It would be interesting to know whether Excelsior has continued providing the required audited annual financial statements to IRRRB, and what assets and liabilities they show. Sertich argues that this restructured agreement provides collateral and so is an improvement over the previous "unsecured" agreement but that is: not correct, given the agency's ability to declare a default and call in the money owing; and meaningless if there are no assets of any value. If IRRRB takes the assets in 2019 what is there?

- **Permits:** Excelsior has not been pursuing an air permit, which is the most problematic one. The site, route and water permits, extended by special legislation in 2011, expire June 30, 2019. So they will not be among the assets after that time.
- **Site:** In December 2012 Excelsior was forced to purchase 240 acres of its footprint area in order to keep its site and route permits valid. It paid \$190,000 and this may count as an asset, unless it is encumbered by a bank loan or in some other manner (another loan to the corporation from Micheletti and/or Jorgensen?). Will the new agreement require Excelsior to keep this asset unencumbered? To pay the property taxes on it? Will Excelsior be required to maintain the option it has to purchase RGGGS's interest in approximately 30 other parcels, totaling about 1400 acres, constituting the site and routes approved by the PUC for the first two plants of the MEP? Maintaining this option requires significant payments to RGGGS, and RGGGS's willingness to continue it.
- **MISO:** Agreement to connect the project to the grid was terminated in May 2013 with FERC's approval. In July 2007 Excelsior hailed this agreement as "an important milestone". In order to get a project into MISO's lengthy queue, a developer must file a detailed application, pay significant fees, and go through a lengthy study process. This would have to be redone if the project is to proceed.

CAMP's take: It is alarming that no Board member inquired about the status and value of assets now or in 2019. Their lack of interest suggests that they recognize that no significant value will be recovered from the assets, and their primary concern is supporting this subterfuge to avoid admitting that IRRRB's initial and continuing support of this project was a foolish waste of public funds. As former Representative and Board Chair Tom Rukavina told the Duluth News Tribune in September 2011: the IRRRB knew the project was a gamble; the Board was desperate because of unemployment from the LTV shutdown; and it was "Not the first time we screwed up, or probably the last". Steps should be taken to assure that no screw-up of this magnitude ever occurs again, whether through cronyism or emotional and uninformed decision making.

Repeated Concessions Enabled Excelsior to Spend It All & Default With Impunity

states that "additional information needs to be provided to support the impact analysis". The ACoE states that there continue to be several NEPA deficiencies in specified areas.

Comments from both agencies are provided at these links to the respective pdf documents. They can also be found with the **Resource Materials**:

Army Corps of Engineers comments - 704 KB pdf

US EPA comments - 408 KB pdf

CAMP Comments to ALJ

CAMP submitted comments to Administrative Law Judge Steve M. Mihalchick regarding the Joint Permit Application: Plant Site, HVTL Route and Natural Gas Pipeline Route for the Mesaba Energy Project.

The comments can be found [at this link](#).

The four volumes of the transcript of the public hearings on the Mesaba siting docket are available at the **Grand Rapids Area Library**.

Vol. I is from the first day of hearing, at Taconite.

Vol. II is from the evening session at Taconite.

Vol. III is from the day session at Hoyt Lakes.

Vol. IV is from the evening session at Hoyt Lakes.

Vols I and IV contain interesting questions that were put to the witnesses and some revealing answers.

Agency Draft EIS Comments

There were several governmental agencies that submitted comments for the draft environmental impact statement. **CAMP** has posted all agency pdf documents on the **Resource Materials** page for your convenience. **CAMP** encourages you to read through them as many are substantive and important to the comprehensive culmination of data on the draft EIS.

Page Links on CAMP Action

Letter to Legislators

CAMP Comments to ALJ

DEIS Comments Page One

DEIS Comments Page Two

Please contact the **Webmaster** if you experience any problems with our website.

There were numerous red flags and opportunities to abort this fiasco early on and throughout its history.

- 2001 - Excelsior Energy incorporated with husband and wife as only two shareholders, with investment of only \$60,000.
- 2004 - Waived requirement for matching funds: Under the terms of the original loan for \$1.5 million in 2001, Excelsior was to raise \$4.9 million in order to access the first \$1 million. This requirement was eliminated in June 2004, and IRRRB began disbursing funds to Excelsior.
- 2004 - Additional \$8 million without certified audited financials: in May 2004 Excelsior's CPA called its report a "compilation" of financial information in lieu of audited financial statements because **"management has elected to omit substantially all of the disclosures . . . required by generally accepted accounting principles"**. In June 2004 the Board approved a second loan agreement for an additional \$8 million before the agency ever received any audited financial statements.
- 2002 - 2006 - Delayed action on failure to open a "base of operations" in the area: In December 2006 Excelsior opened a branch office in Coleraine, after being warned by IRRRB that its failure to do so had put it in default under the terms of the loan agreements.
- 2007 - Present: Forgive failure to pay interest and principal as required (see above).

The IRRRB has long been aware of the MEP's failures. In a November 2010 interview, outgoing Commissioner Layman said that Excelsior Energy's project had "stalled out". Sensible people must wonder why the Board funded this project in the first place, why it ignored the first red flags, and why it extended the due date for payments while it continued throwing good money after bad.

Lobbying - First, Last and Always

From start to finish, Excelsior has excelled at lobbying, on both the state and federal levels. In 2008 the Office of the Legislative Auditor concluded that: Excelsior had "used loan funds for some expenses that appear to be related to lobbying activities"; the IRRRB had not clearly defined prohibited lobbying costs and failed to consider whether some of the salaries which were reimbursed were actually for lobbying activities; and OLA could not determine whether the IRRRB had improperly reimbursed Excelsior \$126,480 for payments to a law firm that may have been for lobbying because the IRRRB had discarded the records.

Tom Micheletti recently told the Minneapolis Star Tribune that Excelsior needs relief from its obligations under the loan agreements because "We don't have unlimited resources". Nevertheless, Excelsior has sufficient resources to pay lobbyists. Reports recently filed for the first five months of 2013 show that Excelsior has continued to pay lobbyists Christopher DeLaForest, Judy Cook, James Girard, Kathleen Micheletti, and Douglas Johnson for efforts to influence legislative and administrative action, as it also did during the second half of 2012 and previous reporting periods.

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CAMP UPDATE

March 18, 2013

ANOTHER WHEEL COMES OFF THE MESABA ENERGY PROJECT

Termination of Agreement to Connect Mesaba to the Grid

Excelsior Energy has **"breached its obligations" by "failing to provide a deposit for restudy after suspending its obligations under (the agreement) for three years"**. Thus states MISO in its 3/5/13 letter to FERC, seeking to terminate, effective May 4, 2013, its agreement for connecting the Mesaba Project to the grid.

MISO & FERC

MISO (Midwest Independent Transmission System Operator), under the supervision of FERC (Federal Energy Regulatory Commission), conducts studies and evaluations to manage regional (15 midwest states and Manitoba) planning for generation and transmission of electricity. It provides access to the transmission system for generator interconnection projects, such as the MEP. In order to get a project into MISO's lengthy queue, a developer must file a detailed application, pay significant fees, and go through a lengthy study process.

"Important Milestone" Undone

In July 2007, with great fanfare, Excelsior Energy announced the achievement of "an important milestone" - signing agreements with MISO, after 32 months of extensive studies, to connect both MEP sites to the grid to accommodate 603 MWs from the first unit. The agreements required the MEP to fund \$81.5 million in upgrades to the system, to be done by Minnesota Power (transmission owner).

In a 3/5/13 letter to FERC, MISO gives notice of termination of its agreement with the MEP. The detailed explanation of Excelsior's breach and default is concealed in an exhibit containing "non-public confidential information" but MISO asserts that it has given notice to Excelsior, which has not taken appropriate steps to