

18/1/04

September 14

- While still assuring Excelsior that the closing will be forthcoming, IRR staff meet with IRR counsel and direct him to make comprehensive changes to the agreement to reflect a host of new terms, outside the scope of those agreed, *including changes to the actual language proposed by the Commissioner and formally approved by the Board in the June 30 meeting.*

September 17

- IRR counsel sends new draft to IRR staff, including all the new changes discussed on September 14.
- Draft is forwarded to Excelsior with an email from Dave Hart that says "our attorney made some changes, I hope they aren't troublesome." In a phone call to me, Dave described the changes as "minor" and "no big deal," even though the changes were extensive and contrary to earlier discussions and the express agreement of the parties.

Remainder of September

- Excelsior follows up with Dave Hart, who insists that there was no agreement on June 30 and IRR is free to continue proposing changes. He states that IRR is in a position to call a default and accelerate the debt under the 2002 agreement. *default*
- At your meeting with Senator Tomassoni and me, some members of IRR staff continue to insist that there was no agreement with Excelsior.

Commissioner, three months have passed since the parties reached full agreement on the final terms of a written contract. We were told it would go immediately to the Governor for signature. Based on that understanding, we have proceeded to make commitments and have discussed the agreement with our investment bankers. We cannot proceed on a number of fronts until the funds are available to us.

The delay to date has created some very real stumbling blocks for the project and required that our senior team devote a lot of time to what should have been a routine closing of the loan agreement. We are now in a position where we will have to disclose the problem to our bankers and other third parties (including, potentially, investor candidates who are exploring an investment of over \$300 million on the Iron Range) who have not questioned it when we have said that that the agreement is a "done deal."

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October 1, 2004

Commissioner Sandy Layman
Iron Range Resources
P.O Box 441, Highway 53 South
Eveleth, MN 55734-0441

Re: Excelsior Energy Inc./Convertible Debenture Agreement Closing

Dear Commissioner Layman:

Thank-you for meeting with me on Wednesday. As you know, the Mesaba Energy Project has made significant progress towards achieving success and commencing construction in 2006. It is important to the continued momentum and ultimate success of the project that we execute the Convertible Debenture Agreement that was finalized and agreed between the parties on June 30 and approved by the Board on that date.

I wanted to summarize for you the sequence of events that have occurred to date on the \$8 million debenture agreement approved at the June 30 meeting. I have enclosed emails that confirm this account.

June 28 and 29, 2004

- After discussions in person with you and various Board members over the course of more than a month, in which precise language and the scope of changes to the 2002 agreement is agreed by IRR and Excelsior, Excelsior presents, in person, a mark-up of the 2002 agreement (marking changes from the starting point document that was provided by Dave Hart) to reflect agreed changes to conform the 2002 agreement to reflect the new deal. The agreement from earlier discussions with you and Board members was that changes would be made only to reflect the new dates, amounts and terms of funding for the new facility, using the precise wording agreed with you, circulated to the Board and to be formally approved by the Board on June 30th.

only the amend ments given to the board

From: Brian Hanson
To: Hart, Dave
Date: 11/4/04 10:01AM
Subject: Re: Excelsior Energy

Dave -

Please accept this email as approval for a draw on the \$1.5MM debenture, as requested. The agency is in regular contact with officials from Excelsior, and indications are that the project is progressing. The agency is in final negotiations for up to \$8MM in additional assistance. A recent announcement of \$36MM in federal assistance from the U.S. Department of Energy was encouraging. Thank you. Brian

>>> Dave Hart 11/03/04 08:19AM >>>

I received a call yesterday from Bill Ruzynski of Excelsior Energy. He said they were sending a request for a draw on the \$1.5MM debenture. Since they are in technical default, I need approval to disburse funds.

Dave

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