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Testimony for House Subcommittee on Energy and Mineral Resources

Hearing Date: July 27, 2017

Discussion on Rep. Tom Emmer Draft Legislation

Nancy (Aronson) Norr, Chair, Jobs for Minnesotans, a nonprofit corporation

#### Main Points:

1. This arbitrary withdrawal of land will decimate the economic future of Northeastern Minnesota and a Way of Life available to future generations of Minnesotans.
2. The proposed environmental study and Land Withdrawal in the Superior National Forest is an aberration of the thorough, multi-agency, science-based National Environmental Policy Act, which calls for environmental review once a mining project has a defined mining plan.
3. The bill will correct an injustice and restore the opportunity to explore strategic metals in one of the richest mineral deposits in the nation critical to our economy and national security.

My name is Nancy Aronson Norr and it is an honor to provide testimony and represent the people of Minnesota who consider our state a mining center of excellence. I'd like to thank Chairman Gosar and Ranking member Lowenthal for hearing this important bill and bringing hope to a region that their way of life will be sustained and their economic future strengthened. And to the other honorable members of this panel, I thank you for your time and attention as we consider legislation that will correct a grave injustice imposed by federal agencies on the people of Minnesota. An injustice that if not addressed could decimate a region's future economic prosperity and create a significant aberration to the existing federal environmental review process. The Emmer discussion draft will allow existing, highly regulated mining exploration and leasing to continue in one of the most mineral rich regions in the country if not the world – without weakening a single environmental protection standard, or shortcutting a single environmental protection process. The video Chairman Gosar showed tells the stories of our communities in ways that my testimony cannot.

Mining has been the lifeblood of Northeastern Minnesota for over a century, supporting families and communities with good-paying middle-class jobs. It has existed in harmony with our other core industries of forest products, transportation, health care, education and tourism. Many of the communities located in the active mining region called the Iron Range draw their drinking water from former mining sites that dot our landscape, now lakes offering some of the cleanest water in the state along with wildlife habitat and recreational amenities.

I am here today on behalf of Jobs for Minnesotans, a unique coalition founded five years ago by the Minnesota Chamber of Commerce and Minnesota Building and Construction Trades Council, bringing business, labor and communities together to support statewide opportunities for prosperity and middle-class jobs from sustainable natural resource development. It is my privilege to serve as the board chair and represent the voices of over 55,000 members of the building trades, over 2,300 members of the Minnesota Chamber and the 500,000 they employ, and hundreds more local chamber members, mayors and residents of our state including over 75,000 citizens of the Iron Range. The people I represent deeply cherish our natural environment, Lake Superior and its vast tributaries, the Boundary Waters Canoe Area Wilderness (BWCA), Voyageurs National Park and our national forests. We are

committed to the principle that our state can create job opportunities and preserve the beautiful environment that surrounds us.

### **A Deal is a Deal – Mining is our Bedrock**

Mining has been under attack by those who seek to limit the livelihoods of our residents and take away their opportunities to work in mining or with the hundreds of vendors and service providers that supply it. These mining opponents have pledged to prevent mining in our region and have attempted to overpower the voices of the people who support it. In early January of this year, outgoing U.S. Forest Service (USFS) officials proposed a withdrawal of lands and a 20-year moratorium on mining development in a vast area of the Superior National Forest (SNF). The proposed withdrawal area is outside of the Boundary Waters Canoe Area Wilderness (BWCAW) and the mining protection area established by Congress in the 1964 Wilderness Area Act and the 1978 Boundary Waters Canoe Area Act. The withdrawal area is where Congress specifically encouraged multiple-use management, including mining. The approximately 235,000 federal acres in the proposed land withdrawal area are intertwined with more than 190,000 acres of state and private lands, including 95,000 acres of permanent state school trust lands. The total withdrawal area of more than 420,000 acres of forest land would be in addition to the already existing 1.1 million acres of wilderness in the BWCAW. (See Map – DNR attached).

New mining projects in the proposed withdrawal area have the potential to generate more than \$2.5 billion in royalty revenue for the state's Permanent School Trust Fund and support the education of nearly 900,000 K-12 students statewide. Minnesota children need these revenues to help ensure they receive a quality education and need these mining jobs to help sustain their future prosperity.

What is especially frustrating to our coalition members is this egregious mineral withdrawal proposal comes just as our state is poised for a new era in mining through a diversification into both value-added iron mining and the mining of strategic metals such as copper, nickel, palladium and platinum. Mining diversification, using advanced technologies and state-of-the-art environmental practices, is a perfect union to the skills and work ethic of our people. We know how to mine. And we will protect the region where we live, work and play, and draw our drinking water. We will also hold the companies that choose to invest in Minnesota to their social license and ensure they remain good stewards of the environment.

Our Eighth District Representative Rick Nolan, who has been a strong proponent of responsible mining, has helped lead the charge against this action. He served in the House when the BWCAW was created by Congress in 1978. There were hard fought compromises to define the boundaries of the Park. In January, United States Forest Service (USFS) Agency officials under the Obama Administration took action to rewrite the laws of the land through this withdrawal action, which violates the trust of the people who went through a very painful and controversial "taking of lands" back in the 1970's. Promises were made, but those promises will be broken and hopes for community sustaining opportunities will be shattered if this area of the Superior National Forest expressly available to mining has a 20-year moratorium imposed. Congressman Nolan has put it well many times, stating, "A Deal is a Deal".

Let me take a moment to ground you in some economic realities of our corner of Greater Minnesota and the counties most directly impacted by the land withdrawal. In June unemployment in the Range cities of Hibbing was 7.2 percent and in Virginia was 5.7 percent. In the seven county Minneapolis and St. Paul metro area it was 3.5 percent. According to the most recent data provided in the 2015 American Community Survey, annual median income of Lake County was \$48,417 and Northern St. Louis County was \$44,073. In the Minneapolis St. Paul area it was \$69,191. In communities adjacent to the withdrawal area and where there is not currently an active iron mine, 40 percent of the students are on free or reduced price lunches. In Ely, Minnesota, considered the Gateway to the Boundary Waters, the 1968 graduating class was over 150 students; today it's a mere 32. In the past two years, some of these communities have suffered the loss of hospital birthing services, their grocery store, their only dentist and their only pharmacy. The communities at the epicenter of this withdrawal action, all members of the Range Association of Municipalities and Schools, are on record, including Ely, opposing the USFS actions. (See Resolutions attached.)

There is a small vocal minority that has pushed for the land withdrawal with the idea that a regional economy can be supported by tourism jobs. Mining opponents also say that mining cannot sustain a region because it's too cyclical and in decline.

It is true that mining along with many manufacturing and service industries has become more automated and uses technology to create greater productivity and global competitiveness. Although the employment numbers are down from the 1980's, over 5,000 direct mining jobs continue to exist in the industry creating the bedrock of our economic region. We value our tourism economy and believe that without question both will thrive in a new era of copper-nickel mining.

In a 2016 study conducted by The Praxis Strategy Group, direct mining in 2015 employed 5,140 high-paying jobs at an average salary of \$81,000. The industry impacted a total of 9,400 jobs across all sectors of the economy including tourism at an average wage of \$68,000. According to this study, tourism provides a higher number of jobs, especially in summer, with 6,400 jobs. But because of the part time nature and seasonality of this employment the annual average salary is \$18,000. We have world-class tourism assets developed on former mining lands. The Giants Ridge golf resort, the Iron Range Off-Highway Vehicle State Recreation Area and the Cuyuna Range mountain bike trails set along deep water mine pit lakes, used for scuba diving in summer and ice climbing in winter, to name a few. The study reinforces the positive coexistence of mining and tourism – mining induces the creation of nearly 500 tourism and lodging jobs in the study area.

At \$18,000 a year on average, a tourism sector job is well under the \$24,000/ year federal poverty guideline for a family of four. As stated by Aurora City Councilor and Jobs for Minnesotans' Board Member Dave Lislegard, "Tourism is like dessert. It looks good, it smells good and even tastes good but you can't live on it."

### **Why do we support the Legislation and its intent?**

Since 2016 when our coalition became aware of the USFS' decision to hold listening sessions on what was then only a possible action, teams of state, community, business and labor leaders have met with agency officials and implored them to stick with the current regulatory environmental framework set up under the National Environmental Policy Act (NEPA) that works to protect communities while still allowing economic opportunity. . Our message: Stick with the existing process and don't kill our future with an unwarranted 20-year mineral withdrawal. The purpose of the NEPA is to both protect the environment and achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.

Opponents and mining supporters alike can raise concerns during the NEPA process that through our state and federal agencies are addressed in a detailed and science-based manner. A Minnesota copper-nickel mining project located outside of the proposed land withdrawal area has taken over 12 years to work through NEPA and the Minnesota state regulatory processes but has finally received the Minnesota Department of Natural Resources' (MNDNR) blessing and EPA concurrence on its Final Environmental Impact Statement. In their fact sheets on this project, the Minnesota DNR has indicated there will be no acid rock drainage. The Flambeau Mine in Wisconsin is an example of responsible copper mining in the Great Lakes region, now fully mitigated and used as a recreational site. Members of the Jobs for Minnesotans Board of directors conducted our own due diligence by spending a day with the Eagle Mine in Michigan's Upper Peninsula, an operating copper mine that is fully compliant with federal and state regulations located in a water-rich region and mining a higher sulfur grade ore than the ore in NE Minnesota.

Even after consulting environmental experts on the matter, it is still unclear to me how agencies will conduct an environmental study on this vast acreage without an actual mine plan. What will be mined? Where will it be mined? Where will the ore processing take place? What environmental controls and water quality treatment will be used? These and many other project characteristics have yet to be defined. And if the current two-year review is left in place and a subsequent 20- year withdrawal is enacted, we may never know. Scrapping the withdrawal application allows us to get back to the starting blocks, get back on equal footing, propose a mining plan and go through NEPA.

Support for mining activities in the region remains strong and we need the U.S. Forest Service and Bureau of Land Management to know where Minnesotans stand on these issues. In November 2016, Twin Metals

Minnesota and the Mining Minnesota trade association released results of a survey of voters in northeastern Minnesota that provide timely insight on these topics. At a high level, more than 80 percent of the people surveyed support the existing process of allowing copper-nickel mining projects to go through rigorous state and federal environmental review. Action by the Obama Administration to withdraw access to federally-owned minerals is contrary to the review process and would go against popular opinion as seen in results from the same survey that showed 66 percent of respondents oppose this type of action.

In Minnesota, we completely support the existing rigorous environmental review and standards based on science and facts, implementation of modern mining practices, and financial assurance laws that will result in safe mining operations accountable to communities, taxpayers and future generations. The Emmer bill will ensure the federal process maintains the appropriate level of fairness and predictability.

### **What is at stake with this land withdrawal?**

A statistic that would surprise many Minnesotans – our state is in the top five states for mineral production value in the nation. The Superior National Forest, and specifically the area proposed for withdrawal, contains a portion of mineral rich region known as the Duluth Complex. The Duluth Complex contains a more than 4 billion ton deposit containing copper, nickel and other palladium group metals. This deposit could supply minerals we need for our growing green economy for generations. As the maps will show attached to my written testimony, there are 62 active mineral leases in the withdrawal area alone and over 140,000 acres of intertwined state lands, including 95,000 acres of Permanent School Trust Fund acres.

The Duluth Complex holds the world's:

- 2nd largest copper deposit (34 percent of U.S. resource)
- 3rd largest nickel deposit (95 percent of U.S. resource)
- 2nd largest platinum-group metals deposit (75 percent of U.S. resource)

The University of Minnesota Duluth 's economic impact studies on nonferrous mining verify a vast economic potential exists if mining companies with current exploration interests proceed to define their mine plans, meet all federal and state regulatory standards and begin mining. The economic value of these metals exceeds \$2.5 billion in annual economic production and would generate over \$1.5 billion in annual wages. In addition, according to the Minnesota Department of Natural Resources, the School Trust Fund lands have the potential to produce over \$2.5 billion in mining royalties for Minnesota's 900,000 kids in the K-12 school system.

The federal government doesn't mine metals. It relies on the private sector to explore and assume the risks of finding minerals with sufficient economic value that can be mined in an environmentally safe manner. Companies that hold exploratory mineral leases must apply for environmental permits to do drilling and complete mitigation on the drilling sites. In December of 2016 just prior to the USFS application for land withdrawal, Twin Metals Minnesota was denied the ability to renew leases after investing over \$400 million in their preliminary environmental studies and mine planning. Over \$400 million dollars. Congressman Emmer's bill will address this injustice and prevent it from happening to other companies in the future.

### **The Need for Domestic Minerals**

The 115th Congress has taken up several bills relating to strategic and critical minerals. It is ironic that in some cases the critics of mining in Minnesota are also the most ardent supporters of renewable energy and the clean energy economy. There is over four tons of copper in a single 3 MW wind turbine and 75 pounds of copper in a hybrid electric vehicle. These minerals are used in our everyday lives – in laptops and smart phones, in the pollution controls in cars, in electric and telecommunication infrastructure and in many other ways. And our men and women serving in the military and protecting our nation's interests would not have access to sophisticated defense systems without these crucial minerals. The Iron Range answered the call of our nation supplying iron to make the steel that won World Wars and built this country. We now have the opportunity to source strategic minerals in a state that protects worker safety and the environment, minerals essential to our quality of life.

The U.S. is an enormous consumer of these metals yet very few mines in the United States produce them. The United States Geological Survey (USGS) released its 2017 Minerals Commodities Summaries and reported an

increased reliance on mineral imports in 2016. The U.S. is now 100 percent import reliant on 20 minerals and more than 50 percent import reliant on an additional 30 minerals. According to the National Mining Association, half of the nation's hardrock mineral lands are already off-limits or under restrictions for mineral development. And yet agencies are evaluating another land withdrawal for 20 years in a state known for responsible mining and its mining heritage.

In conclusion, the legislation before you will accomplish many things. It will restore access to domestic minerals essential to our economy and national security, it will restore our government's regulatory compact and the faith that Congress' promises will be kept, and most important, will restore the economic future of thousands of Minnesotans. Thank you for your attention.

**Attachments:**

RAMS Resolution  
Operating Engineers Letter  
Minnesota Chamber Letter  
State of Minnesota Legislators' Letter  
Lake County Resolution  
Duluth Chamber of Commerce Resolution  
City of Ely Resolution  
MNDNR Map of Current Mines and Mineral Development  
MNDNR USFS Application Boundary Figure 1  
Twin Metals Minnesota brief



## Resolution 02 – 2017 Withdrawal Resolution

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WHEREAS, two federal agencies, the Department of Interior (DOI) and the United States Forest Service (USFS) , have initiated misguided actions to withdraw nearly 240,000 acres of federal lands and minerals from future exploration and potential development, and

WHEREAS, this politically motivated decision will cause devastating and irreversible damage to the citizens, communities and economy of the region, and

WHEREAS, a thorough and comprehensive environmental review process is already established under the National Environmental Policy Act (NEPA), and

WHEREAS, the responsibility of the federal agencies is to accept proposed mineral development projects and subject them to the science based review established under NEPA, and

WHEREAS, independent economic analysis by University of MN - Duluth estimates more than 12,000 construction jobs and 5,000 long-term mining jobs would be created if projects currently under various stages of development in the region advanced to operation, and

WHEREAS, the estimated four billion ton deposit of copper, nickel, and other precious metals in the Duluth Complex stand to potentially generate close to \$3 billion in royalty revenue for the state's Permanent School Trust Fund, and

WHEREAS, this revenue would support the education of nearly 900,000 K-12 students statewide, and

WHEREAS, there are 95,000 acres of School Trust Lands within the boundaries of the proposed federal withdrawal, and

WHEREAS, as a result, a significant amount of this enormous economic opportunities and education responsibilities would be lost under the anti-mining withdrawal proposal by the agencies, and

WHEREAS, similar withdrawal proposals from anti-mining groups have been strongly opposed by US Senator Amy Klobuchar, US Senator Al Franken, Congressman Rick Nolan, the entire Minnesota Range Legislative Delegation, over 50 additional Minnesota state legislators, and the vast majority of local elected officials throughout the region, and

WHEREAS, a recent public opinion poll shows two-thirds of citizens in the region oppose withdrawal of federal minerals from future development, and



WHEREAS, the proposed withdrawal would provide no environmental benefits or protections that do not already exist under the National Environmental Policy Act (NEPA) and related state and federal environmental quality laws, standards and regulations.

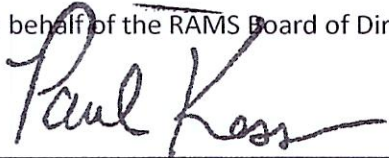
WHEREAS, the unproven concerns raised by the BLM and USFS are based on hypothetical and unfounded fears of generalized impacts from mining,

THEREFORE BE IT RESOLVED , the board of directors of the Range Association of Municipalities & Schools (RAMS) hereby request the Trump administration to immediately rescind the BLM-USFS proposal to withdraw 240,000 acres of land in NE Minnesota from future leasing, exploration and potential development and withdraw the BLM's Federal Register notice announcing the proposal, and

FURTHER RESOLVE, that Senator Klobuchar and Senator Franken join Congressman Nolan and publicly state both their opposition to the withdrawal and formally request immediate reversal by the Trump administration, and

FURTHER RESOLVE, the federal agencies return to their responsibility of accepting mineral development projects, review them under the existing NEPA and the scientific, multi-agency requirements of an Environmental EIS process, and restore opportunity for economic development and investment in Minnesota while providing an avenue for America to gain domestic independence from foreign mineral sources that are invaluable to our everyday basic needs, and more importantly to our national security and safety of our country.

On behalf of the RAMS Board of Directors:



Paul Kess/President RAMS

Dated: January 26, 2017

Approved on a vote of 22 ayes

0 nays

# International Union of Operating Engineers

LOCAL NO. 49, 49A, 49B, 49C, 49D, AND 49E  
MINNESOTA • NORTH DAKOTA • SOUTH DAKOTA

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BRUCE A. STAHNKE, Vice President  
TIM L. OLSON, Recording-Corresponding Secretary  
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February 24, 2017

Office of the Secretary  
Secretary-nominee Ryan Zinke  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

Office of the Secretary  
Secretary-nominee Sonny Perdue  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Dear Secretary-nominee Zinke and Secretary-nominee Perdue:

The International Union of Operating Engineers Local 49 represents 13,000 heavy equipment operators in Minnesota, many of whom make their living working in the mines on the state's Iron Range. I am writing regarding recent action under the Obama Administration by the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) to pursue the withdrawal of 235,000 acres of federally owned land and minerals in northeast Minnesota from future leasing, exploration and potential development.

We strongly opposed President Obama's actions, and we urge you to immediately rescind the withdrawal proposal. Mining isn't just an industry here, it is a lifeline for the thousands of men and women that live and work in northern Minnesota. A commitment was made by the federal government when the Boundary Waters Canoe Area was created that the area in question would be open for mining. The government needs to honor that commitment. Our state needs these good paying jobs.

Northern Minnesota is sitting on a 4 billion ton deposit of copper, nickel and other precious metals, the largest known untapped deposit of these minerals in the world. It is critical that the federal government not get in the way of our decisions here at home to mine these minerals. We have strong environmental laws. In Minnesota, we mine and we have clean water, the two aren't mutually exclusive. We can make our own determinations as to viability and safety of mining projects, we have been doing that successfully for 130 years.



You are hearing a lot of noise right now from political activists claiming to speak for the Boundary Waters and the entire region. You should know, most of them don't live in Minnesota. You should also know that most of the Minnesotan's you are hearing from that are opposed to mining don't live near the Boundary Waters, they live in the Twin Cities. Every poll ever taken has concluded that by overwhelming majorities people who live in northern Minnesota strongly support mining. I implore you to listen to the people that actually live there.

In this era of hyper politicization, the voices of regular working class people are often drowned out by the political chattering class and their agendas. The Obama administration responded to those voices and ignored the good folks of the Iron Range in this particular instance. I ask you not to make that same mistake. Please direct the USFS to rescind its application for withdrawal submitted to the BLM and have these agencies withdraw their Federal Register notices.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. George', written over the printed name.

Jason George  
Special Projects Director  
International Union of Operating Engineers Local 49

February 24, 2017

Office of the Secretary  
Secretary-nominee Ryan Zinke  
U.S. Department of the Interior  
1849 C Street N.W.  
Washington DC 20240

Office of the Secretary  
Secretary-nominee Sonny Perdue  
U.S. Department of the Interior  
1400 Independence Ave., S.W.  
Washington DC 20250

Dear Secretary-nominee Zinke and Secretary-nominee Perdue:

On behalf of the Minnesota Chamber of Commerce, I am writing regarding recent action under the previous administration by the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) to pursue the withdrawal of 235,000 acres of federally owned land and minerals in northeast Minnesota from future leasing, exploration and potential development. We urge you to immediately reconsider and rescind the withdrawal proposal.

If not rescinded, this action will have devastating and long-lasting effects on the citizens, communities and economy of northeastern Minnesota. Minnesota has a 130-year mining history and with more than a 4 billion ton deposit of copper, nickel and other metal resources in our backyard – the largest known untapped deposit of these minerals in the world – we stand to continue this tradition for generations to come. The nation will benefit from a domestic source for these minerals, which are critical to our national defense, infrastructure, manufacturing, technology and green-energy sectors.

At risk are thousands of jobs that could be created from mining operations, plus approximately two additional jobs created in other industries for each mining job. This represents a loss of \$1.5 billion in annual wages, and more than \$2.5 billion in annual economic production based on studies conducted by the University of Minnesota Duluth. Providing products requested by the international marketplace that include these natural resources, will benefit Minnesota and the national economy.

The proposed withdrawal of federal lands would also impact 190,000 acres of state and private lands within the designated withdrawal area, including 95,000 acres of land qualifying as state school trust fund minerals. New mining projects have the potential to generate nearly \$3 billion in royalty revenue for the Minnesota Permanent School Trust Fund, which would support the education of nearly 900,000 K-12 students statewide. These are jobs and economic benefits that will allow families to flourish and children to have future job prospects.

Minnesota strongly supports mining activities and the majority of registered voters in northeastern Minnesota oppose action to withdraw federally owned minerals, according to a survey released late last year by the MiningMinnesota trade association and Twin Metals Minnesota. More than 80 percent of the people surveyed support the existing process of allowing copper-nickel mining projects to go

Office of the Secretary  
Secretary-nominee Ryan Zinke

Office of the Secretary  
Secretary-nominee Sonny Perdue

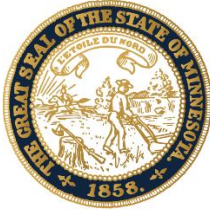
Page 2

through rigorous state and federal environmental review. The Minnesota Chamber of Commerce strongly supports the mining economy, as well as existing laws and regulations that both encourage the development of copper-nickel mining projects and protect the environment. We ask you to have the USFS reconsider and rescind its application for withdrawal submitted to the BLM and have these agencies withdraw their Federal Register notices.

Sincerely,



Douglas B. Loon  
President



January 11, 2017

Secretary Sally Jewell  
U.S. Department of the Interior  
1849 C Street N.W.  
Washington DC 20240

Secretary Tom Vilsack  
U.S. Department of Agriculture  
1400 Independence Ave. S.W.  
Washington, DC 20250

Dear Secretary Vilsack and Secretary Jewell:

As elected leaders of the Minnesota Legislature, we are writing to express our outrage at the recent politically-driven decisions issued by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) related to mineral development in Northeast Minnesota. Initiating actions to withdraw nearly 240,000 acres of federal lands and minerals from future exploration and potential development and denying the renewal of 50-year federal mineral leases held by Twin Metals Minnesota are onerous decisions that will cause devastating and irreversible damage to the citizens, communities and economy of the region. We seek your immediate reconsideration and reversal of these actions, and urge you to refocus your agencies on the proper tasks of accepting and assessing mining project proposals under the regulatory procedures established by the National Environmental Policy Act (NEPA) and other related federal statutes.

Prohibiting future mineral exploration and development over 240,000 additional acres of federal lands will have sweeping negative impacts for the not just the precious metals industry, but the entire region of Northeast Minnesota as well. Beyond any one particular project this action will harm a wide array of technology, infrastructure and manufacturing industries, especially the rapidly growing green and renewable energy sectors. Independent economic analysis from the University of Minnesota-Duluth estimates more than 12,000 construction jobs and 5,000 long-term mining jobs would be created if the projects currently under various stages of development in this region came to fruition. Even beyond those direct employment opportunities, research projects nearly a 3:1 ratio of supplemental jobs created. This would represent a significant beacon of hope for one of the most economically distressed regions in our nation. Further, the estimated four billion ton deposit of copper, nickel and other strategic minerals located within the Duluth Complex stand to potentially generate nearly \$3 billion in royalty revenues for the state's Permanent School Trust Fund – resources that would support the education of nearly 900,000 K-12 students statewide. These are the enormous economic opportunities and educational responsibilities that will be lost under your agencies' misguided and politically motivated anti-mining decisions.

We would also note that previous similar withdrawal proposals have been strongly opposed by U.S. Senator Amy Klobuchar, U.S. Senator Al Franken, Minnesota 8<sup>th</sup> District Congressman Rick Nolan, the entire Minnesota Iron Range state legislative delegation, and the vast majority of county and local elected officials throughout the region. Recent public opinion surveys also show that two-thirds of citizens in the region oppose the withdrawal of federal minerals from future development, and more than 80 percent support environmentally-responsible mining in the region. Along with being onerous, unnecessary and contrary to previous Congressional directive, the withdrawal proposal is extraordinarily tone deaf to the opinions and economic needs of the citizens of Northeast Minnesota where mining has been the anchor of the region's economy since its inception in 1881.

In regards to the Twin Metals project specifically, rhetoric should not derail due process. The leases held by Twin Metals were issued in 1966 and have been held in good standing by the federal government for more than 50 years. The leases were renewed by BLM and USFS without controversy in 1989 and again in 2004, and Twin Metals has invested more than \$400 million in project development activities based on the federal government living up to its contractual obligations. The justification given by BLM and USFS for their unprecedented reversal of support for these leases is irrational and based on unfounded fears of hypothetical and generalized environmental impacts of mining in the region.

The potential – but unproven – environmental concerns raised by BLM and USFS related to future mining in the region are appropriately studied under NEPA's thorough, multi-agency, science-based Environmental Impact Statement (EIS) process AFTER a specific mine project has been proposed – a step Twin Metals has yet to take. Fearful guessing about potential future environmental impacts of yet-to-be proposed mining projects is no substitute for the long-established federal and state EIS process. We urge you to reverse the decision to deny renewal of Twin Metals' leases, direct the agencies to renew the leases as they did in 1989 and 2004, and work with Twin Metals under the lease terms to assist in developing a formal mining proposal for proper environmental review.

The expansion of the precious metals mining industry offers generations of Minnesotans thousands of good-paying jobs, billions of dollars in investment, and billions more in revenues to Minnesota schools. It is also an incredible opportunity to further establish our nation's economic and energy independence from the foreign mineral sources we now depend on. Removing vast amounts of federal land from potential development and blocking the renewal of Twin Metals' federal mineral leases will have devastating impacts to the economic future of Northeast Minnesota, and would deny the United States economy responsible access to valuable national resources. These decisions should both be reversed immediately.

Sincerely,



Rep. Kurt Daudt  
Speaker of the House



Sen. Tom Bakk  
Minority Leader



Sen. Paul Gazelka  
Majority Leader



Rep. Joyce Peppin  
Majority Leader





Rep. Dan Fabian  
Environment Committee Chair



Sen. Bill Ingebrigtesen  
Environment Committee Chair



Rep. Mike Sundin  
House District 11A



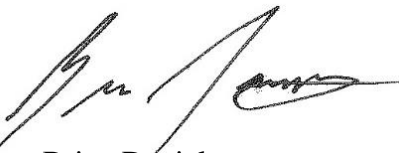
Rep. Jason Metsa  
House District 6B



Rep. Julie Sandstede  
House District 6A



Rep. Joe McDonald  
House District 29A



Rep. Brian Daniels  
House District 24B



Rep. Brian Johnson  
House District 32A



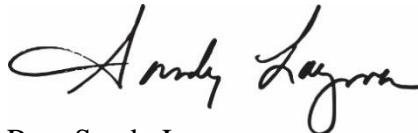
Rep. Chris Swedzinski  
Mining and Outdoor Recreation Chair



Sen. David Tomassoni  
Senate District 6



Rep. Rob Ecklund  
House District 3A



Rep. Sandy Layman  
House District 5B



Rep. Dale Lueck  
House District 10B



Sen. Justin Eichorn  
Senate District 5



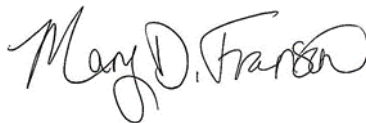
Rep. Nick Zerwas  
House District 30A



Rep. Jason Rarick  
House District 11B



Rep. Rod Hamilton  
House District 22B



Rep. Mary Franson  
House District 8B



Rep. Sondra Erickson  
House District 15A



Rep. Eric Lucero  
House District 30B



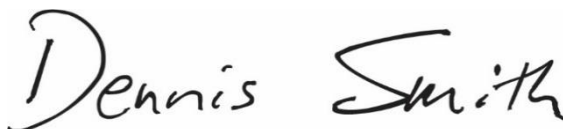
Rep. Jim Nash  
House District 47A



Rep. Paul Torkelson  
House District 16B



Rep. Steve Drazkowski  
House District 21B



Rep. Dennis Smith  
House District 34B



Rep. Marion O'Neill  
House District 29B



Rep. Tony Albright  
House District 55B



Rep. Peggy Scott  
House District 35B



Rep. Drew Christensen  
House District 56A



Rep. Kelly Fenton  
House District 53B



Rep. Peggy Bennett  
House District 27A



Rep. Josh Heintzeman  
House District 10A



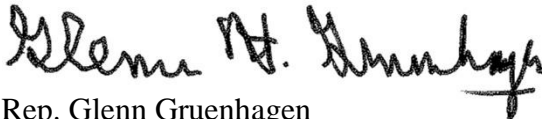
Rep. Kathy Lohmer  
House District 39B



Rep. Linda Runbeck  
House District 38A



Rep. Bob Loonan  
House District 55A



Rep. Glenn Gruenhagen  
House District 18B



Rep. John Poston  
House District 9A



Rep. Tony Jurgens  
House District 54B



Rep. Dave Baker  
House District 17B



Rep. Roz Peterson  
House District 56B



Rep. Matt Grossell  
House District 2A



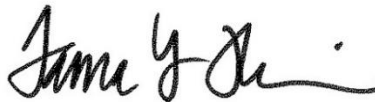
Rep. Keith Franke  
House District 54A



Rep. Paul Anderson  
House District 12B



Rep. Dean Urdahl  
House District 18A



Rep. Tama Theis  
House District 14A



Rep. Steve Green  
House District 2B



Rep. Tim Miller  
House District 17A



Rep. Nels Pierson  
House District 26B



Sen. David Osmek  
Senate District 33



Sen. Mary Kiffmeyer  
Senate District 30



Sen. Jerly Relph  
Senate District 14



Sen. Bill Weber  
Senate District 22



Rep. Cindy Pugh  
House District 33B



Rep. Bob Dettmer  
House District 39A



Sen. Mark Johnson  
Senate District 1



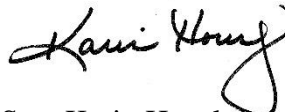
Sen. Warren Limmer  
Senate District 34



Sen. Bruce Anderson  
Senate District 29



Sen. Paul Utke  
Senate District 2



Sen. Karin Housley  
Senate District 39





## **Board of Commissioners**

**Lake County Service Center**

**616 Third Avenue**

**Two Harbors, MN 55616**

Phone: 218-834-8320 Fax: 218-834-8360

Website: [www.co.lake.mn.us](http://www.co.lake.mn.us)

First District – Peter R. Walsh

Second District – Derrick (Rick) L. Goutermont

Third District – Richard (Rick) C. Hogenson

Fourth District – Jeremy M. Hurd

Fifth District – Rich Sve

### **RESOLUTION NO. 17031408**

#### **LAKE COUNTY RESOLUTION OPPOSING THE U.S. FOREST SERVICE APPLICATION TO WITHDRAW 234,328 ACRES OF NATIONAL FOREST SYSTEM LANDS FROM FUTURE MINERAL EXPLORATION AND POTENTIAL MINERAL DEVELOPMENT**

WHEREAS, two federal agencies, the United States Department of Interior Bureau of Land Management (BLM) and the United States Forest Service (USFS), have initiated actions to withdraw 234,328 acres of National Forest System Lands from future mineral exploration and potential mineral development;

WHEREAS, a comprehensive environmental review process is already established under the National Environmental Policy Act (NEPA);

WHEREAS, Title I of NEPA contains a Declaration of National Environmental Policy. This policy requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony;

WHEREAS, Section 102 in Title I of the Act requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach;

WHEREAS, all federal agencies are to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements (EIS) and Environmental Assessments (EA);

WHEREAS, the actions initiated to withdraw these national forest service lands denies the opportunity for a potential project, before there is one to review;

WHEREAS, withdrawal of these acres subverts an established, thorough and elaborate environmental review process;

Laurel D. Buchanan  
Clerk of the Board of Commissioners  
[laurel.buchanan@co.lake.mn.us](mailto:laurel.buchanan@co.lake.mn.us)



Page 2 of 2

**RESOLUTION NO. 17031408**

**LAKE COUNTY RESOLUTION OPPOSING THE U.S. FOREST SERVICE APPLICATION  
TO WITHDRAW 234,328 ACRES OF NATIONAL FOREST SYSTEM LANDS  
FROM FUTURE MINERAL EXPLORATION AND POTENTIAL MINERAL DEVELOPMENT**

NOW, THEREFORE, BE IT RESOLVED, that the Lake County Board of Commissioners hereby opposes the U.S. Forest Service application to withdraw 234,328 acres of National Forest System Lands from future mineral exploration and potential mineral development.

Adopted: March 14, 2017

Commissioner Goutermont moved the approval of the foregoing resolution and the same was declared adopted upon unanimous vote of all members present. Absent: None

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STATE OF MINNESOTA     }  
County of Lake            }     ss.  
Office of Clerk of the Board   }

I, Laurel D. Buchanan, Clerk of the Lake County Board of Commissioners, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 14<sup>th</sup> day of March, 2017, and the same is a true and correct copy of the whole thereof.

WITNESS MY HAND AND SEAL OF MY OFFICE  
at Two Harbors, Minnesota, this 15<sup>th</sup> day of March,  
2017.

  
Laurel D. Buchanan, Clerk of the Board

**From:** David Ross  
**Sent:** Friday, April 28, 2017 1:05 PM  
**Subject:**

Frank and Kelsey,

Our board of directors, moments ago, officially approved the following resolution. Your presentation to our board was instrumental in providing our board members the information and the insight necessary to take this action.

Please add the Duluth Area Chamber of Commerce to the list of advocates for this resolution.

Thank you for the strong leadership you continue to bring to this initiative.

In solidarity,  
David

---

**From:** David Ross  
**Sent:** Wednesday, April 26, 2017 12:02 PM  
**Subject:** Chamber Board Resolution Regarding U.S. Forest Service Actions, Response Required

Chamber Board Members,

At our board meeting yesterday, Frank Ongaro, Executive Director of Mining Minnesota, and Kelsey Johnson, Executive Director of the Iron Mining Association of Minnesota, appealed to our board to take a public, formal position opposing the U.S. Forest Service application to withdraw 234,328 acres of National Forest System Lands from future mineral exploration and potential mineral development.

Sixteen of our twenty-three board members attended the board meeting and heard Frank's and Kelsey's remarks. Those in attendance, expressed support for the Chamber taking this suggested, formal position. I promised these sixteen board members that I would work with Frank Ongaro and Kelsey Johnson to develop a proposed board resolution, which I would distribute to the entire board. I offer the following resolution for your consideration and for your vote:

**Chamber Board of Directors Resolution Opposing the U.S. Forest Service Application to Withdraw 234,328 Acres of National Forest System Lands from Future Mineral Exploration and Potential Mineral Development**

Recognizing that the U.S. Department of Interior Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) have initiated actions to withdraw 234,328 acres of National Forest System Lands from future mineral exploration and potential mineral development; and

Understanding that a comprehensive environmental review process is already established under the National Environmental Policy Act (NEPA), and;

Realizing that Title I of NEPA contains a Declaration of National Environmental Policy. This policy requires the federal government to use all practicable means to create and

maintain conditions under which humans and nature can exist in productive harmony;  
and

Appreciating that Section 102 in Title I of the Act requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systemic interdisciplinary approach; and

Accepting that all federal agencies are to prepare detailed statements assessing the environmental impact of, and alternatives to, major federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements (EIS) and Environmental Assessments (EA); and

Identifying that the actions initiated to withdraw these national forest service lands denies the opportunity for a potential project, before there is one to review; and

Acknowledging the withdrawal of these acres subverts an established, thorough and elaborate environmental review process; be it resolved:

***The Duluth Area Chamber of Commerce opposes the U.S. Forest Service application to withdraw the 234,328 acres of National Forest System Lands from future mineral exploration and potential mineral development.***

I recommend that our board of directors approve the aforementioned resolution.

Please respond by indicating if you: 1) support or 2) oppose this recommended board resolution.

I will notify you of the board's decision.

Please let me know if you have questions, concerns or suggestions.

David

David Ross  
President & CEO  
Duluth Area Chamber of Commerce  
218.740.3751  
[www.duluthchamber.com](http://www.duluthchamber.com)

Visit my blog at [www.duluthchamberpres.blogspot.com](http://www.duluthchamberpres.blogspot.com)

**CITY OF ELY**  
**RESOLUTION OPPOSING THE WITHDRAWAL OF FEDERAL LAND AND**  
**MINERALS FOR EXPLORATION AND DEVELOPMENT**

**WHEREAS**, The United States Congress passed the Wilderness Act in 1964 designating the Boundary Waters Canoe Area(BWCA) as a Wilderness Area, but allowed logging and mining in the 234,328 acre area being considered for withdrawal

**WHEREAS**, The BWCA Wilderness Act of 1978 also permitted and encouraged logging and mining in the 234,328 acres area being considered for withdrawal

**WHEREAS**, The federal lands and minerals left outside of the wilderness area boundary were intended to be mined for the benefit of the state, school trust funds, and nation

**WHEREAS**, The United States Forest Service has applied to the Bureau of Land Management on January 5, 2017 proposing a 20 year mineral withdrawal of 234,328 acres of the same land left by both the Wilderness act of 1964 and the BWCA Wilderness Act of 1978 for potential mining and mineral exploration

**WHEREAS**, 95,000 acres of this land is designated as school trust land

**WHEREAS**, the intent of school trust land is to produce revenue from natural resources, such as logging and mining, to support the public schools in the State of Minnesota

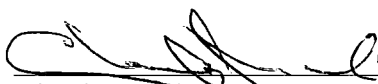
**WHEREAS**, the land within the withdrawal area has had mineral exploration and mining operations for many decades

**WHEREAS**, The US Forest Service and Bureau of Land Management have no scientifically or historically based reason to request the withdrawal

**WHEREAS**, The Ely City Council has went on record many times in the past supporting the continued exploration and due diligence by Polymet, Duluth Metals, and Twin Metals to determine if a mining plan can be developed that is found to be safe

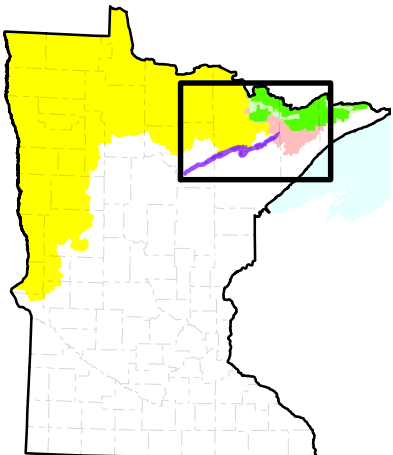
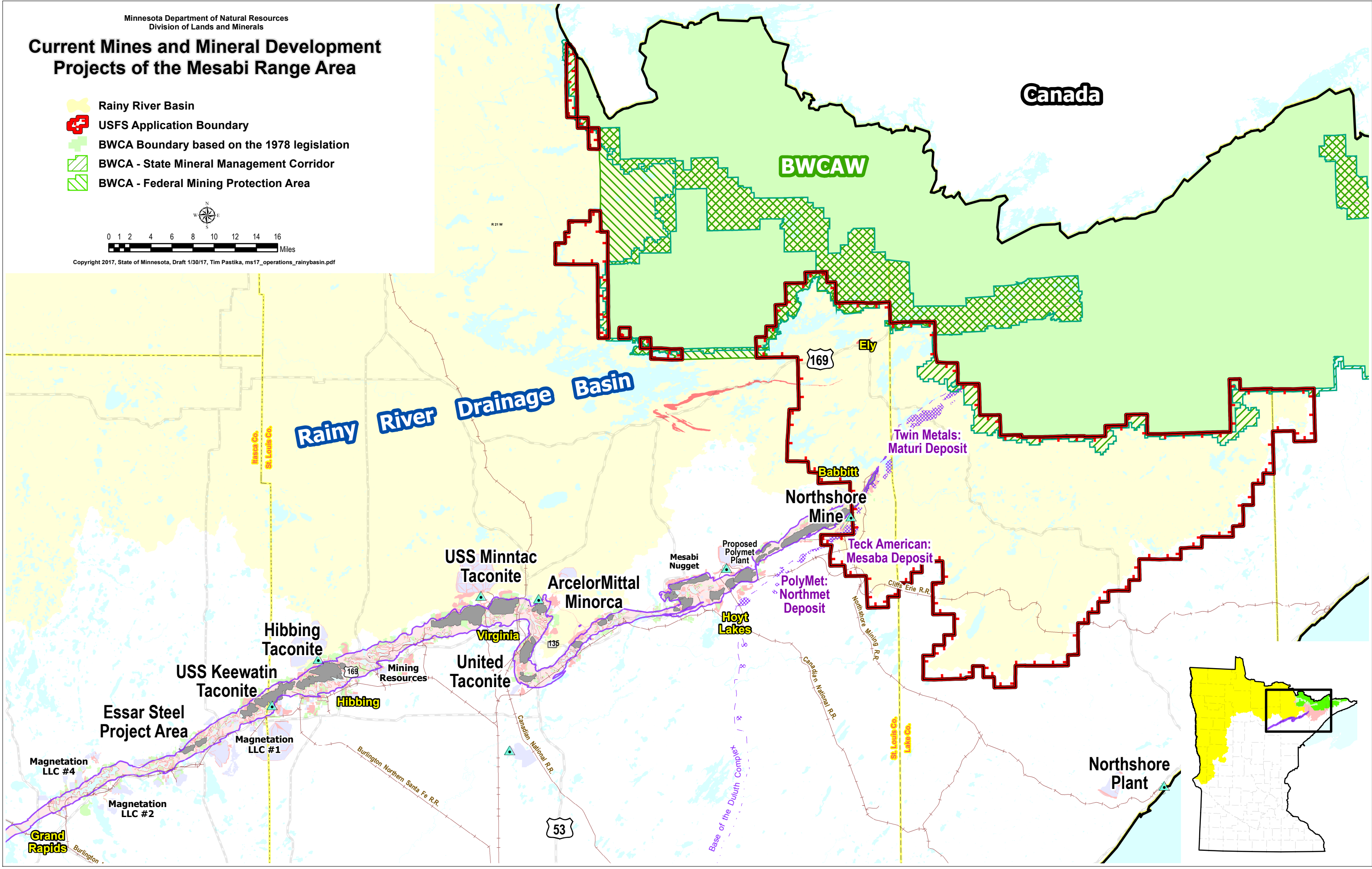
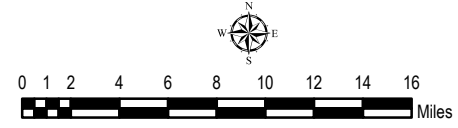
**WHEREAS**, The United States Environmental Protection Agency (EPA) and Minnesota Pollution Control Agency (MPCA) have strict regulations and permitting requirements in place to protect our natural resources

**NOW, THEREFORE BE IT RESOLVED**, that the Mayor and Council of the City of Ely oppose the withdrawal of 234,328 acres within the Rainy River Watershed and request that the State and Federal leasing be renewed for all current exploration of these same lands.

  
\_\_\_\_\_  
Chuck Novak, Mayor

# Current Mines and Mineral Development Projects of the Mesabi Range Area

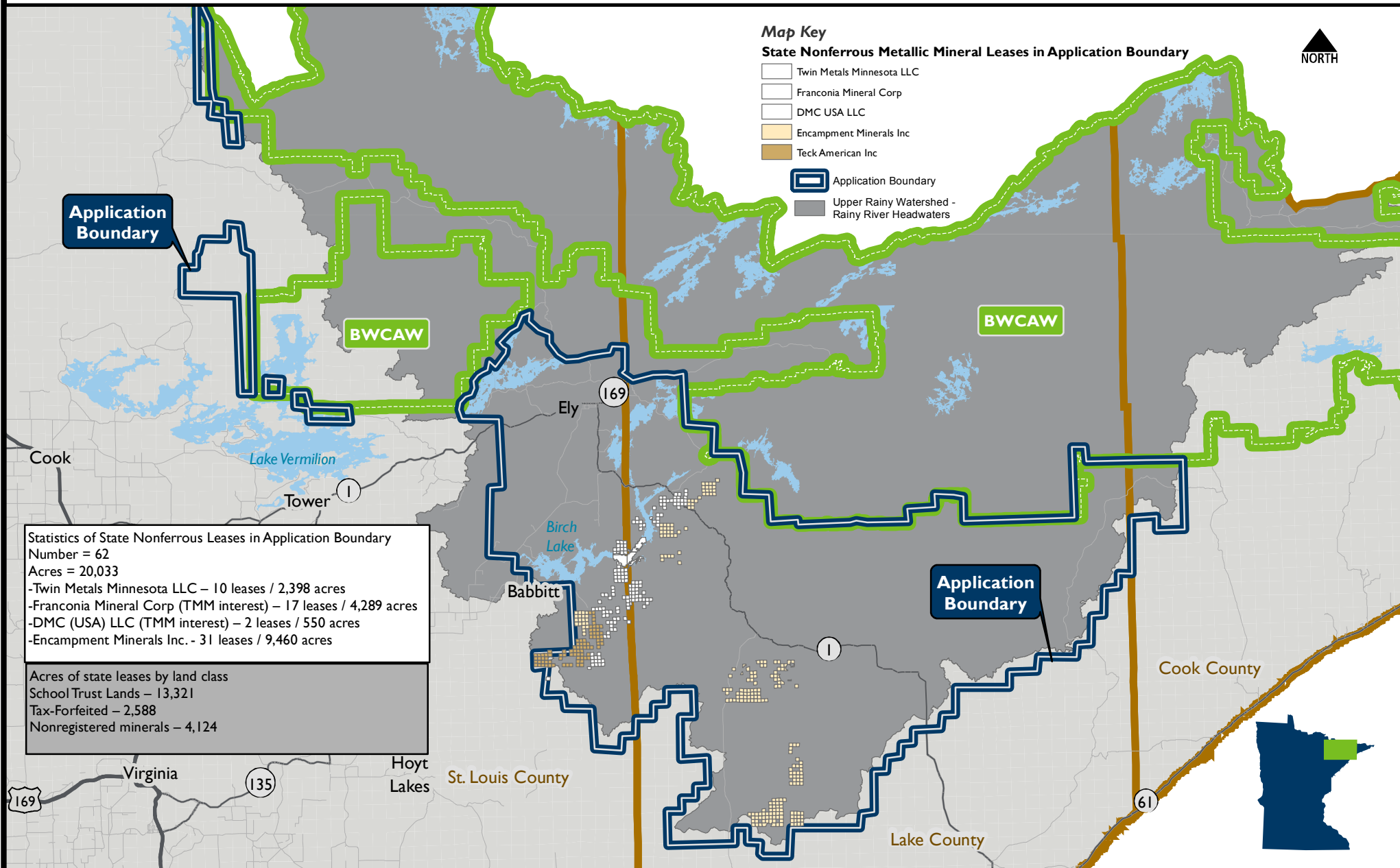
- Rainy River Basin
- USFS Application Boundary
- BWCA Boundary based on the 1978 legislation
- BWCA - State Mineral Management Corridor
- BWCA - Federal Mining Protection Area



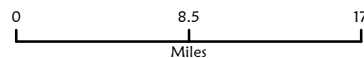


# USFS Application Boundary

Figure 1 - State Nonferrous Metallic Minerals Leasing in Application Boundary

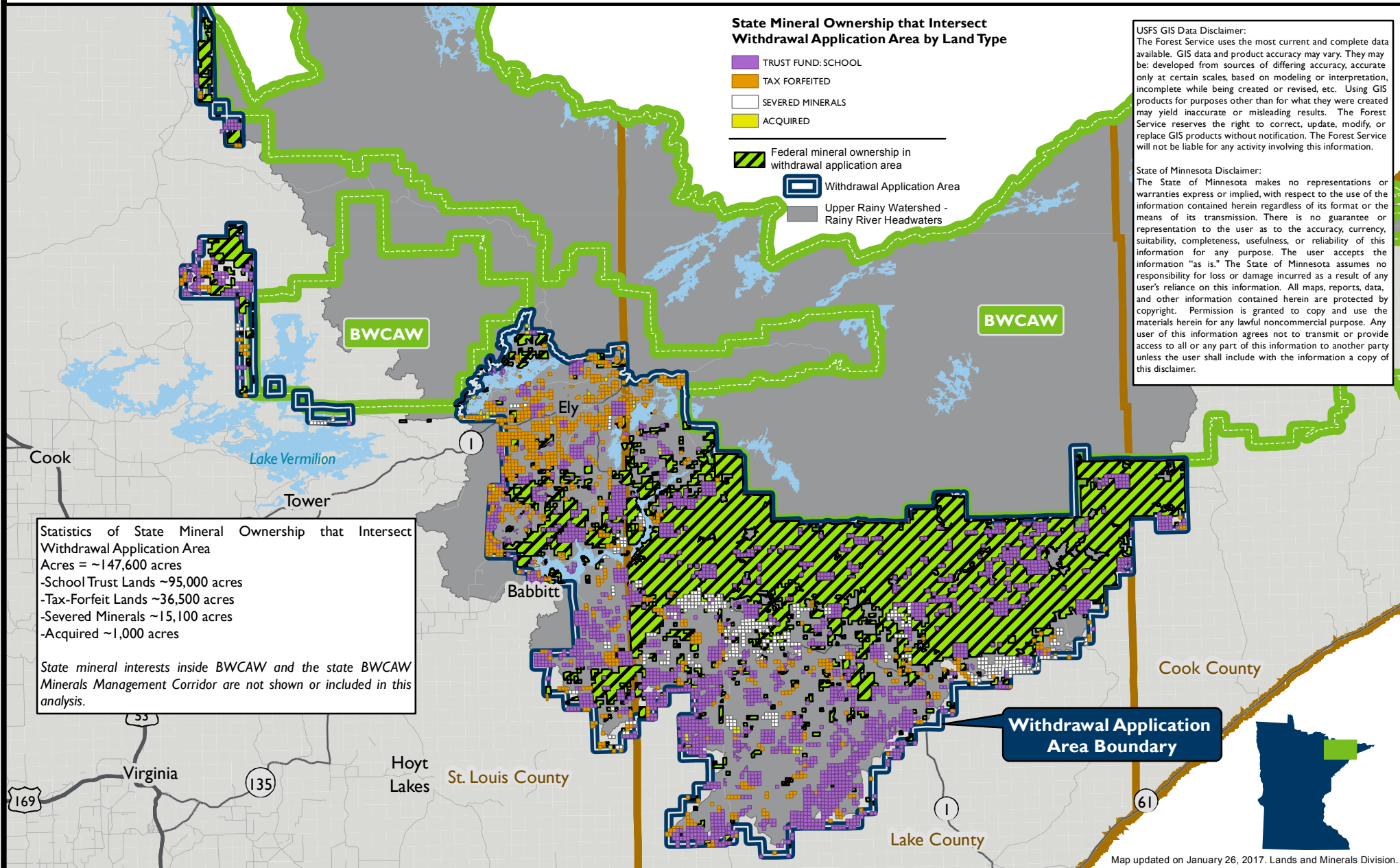


Basemap: DNR County Boundaries, Lakes,  
 Cook Project Data, State Mineral Leases;  
 MnDOT Roads.



Application Boundary GIS Data: Data was digitized by DNR off a  
 georectified U.S. Forest Service Map (Appendix B: Superior  
 National Forest, December 5, 2016).

**Fig. 6: Federal Mineral Ownership in Withdrawal Application Area  
And State Mineral Ownership Within Withdrawal Application Area**



Basemap: County Boundaries, Lakes, Rainy River Headwaters Watershed, and State Mineral Interests from DNR. Roads from MnDOT.

0 8.5 17  
Miles

Withdrawal Application Area and Federal public domain and fee simple acquired mineral ownership in withdrawal application area from USFS as of January 20, 2017. See USFS Data Disclaimer.

**m** DEPARTMENT OF NATURAL RESOURCES

July 24, 2017

Nancy Norr  
Jobs for Minnesotans  
Chair, Board of Directors  
400 Robert Street North, Suite 1500  
St Paul, MN 55101

**Re: House Subcommittee on Energy and Mineral Resources Hearing Regarding Discussion  
Draft of Rep. Tom Emmer Bill on Hardrock Mining in Minnesota's National Forests.**

Dear Ms. Norr:

Thank you for testifying before the House Subcommittee on Energy and Mineral Resources regarding Rep. Tom Emmer's proposed legislation on hardrock mineral development in Minnesota's national forests ("Proposed Legislation" or "Legislation"). The Proposed Legislation is needed to reverse several arbitrary and unlawful decisions made by the Obama Administration to stop, dead in its tracks, hardrock mineral development in the Superior National Forest to the economic detriment of Twin Metals Minnesota, LLC and the communities of northeastern Minnesota.

To rectify the Obama Administration's arbitrary and unlawful actions, the Legislation will:

- Keep in place the Bureau of Land Management's ("BLM") and U.S. Forest Service's ("USFS") plenary authority to issue or deny prospecting permits to prospectors in Minnesota's national forests, including the Superior National Forest ("SNF")
- Require BLM to issue 20-year indeterminate preference right hardrock mineral leases to any prospector who discovers a valuable mineral deposit on its prospecting permit lands;
- Require the BLM to renew the 20-year leases every 10-years until either all hardrock minerals are extracted from the leased land, the lessee materially breaches the lease, or the lessee no longer desires to be under lease;

380 St. Peter St, Suite 705  
St. Paul, MN 55102 USA

**Tel:** +1 651 842 6800  
**Fax:** +1 651 842 6801

- Reinstates Twin Metals Minnesota, LLC's ("TMM") two indeterminate preference right hardrock mineral leases MNES-1352 and MNES-1353 ("Federal Leases" or "Leases") in the SNF;
- Permit the BLM to readjust lease terms and conditions at the lease renewal stage for the limited purpose of encouraging production and to address changing conditions in the lease area;
- Allow hardrock mineral lessees to use off-Lease federal lands for mine facilities and infrastructure to facilitate the development of minerals in an environmentally responsible manner;
- Cancel the Obama Administration's unlawful proposal to prohibit mineral development in over 230,000 acres of land in the SNF ("Proposed Withdrawal") south of the Boundary Waters Canoe Area Wilderness ("BWCA") and prohibit future regulatory and presidential withdrawals; and
- Expressly maintain existing legislative protections for the BWCA.

This Legislation is consistent with long-standing federal mineral law and policy established by Congress over the past 150 years and is necessary to remedy the arbitrary and unlawful actions the Obama Administration took in its waning months. In particular, the Department of the Interior's chief legal counsel issued a binding opinion concluding—contrary to 65-years of agency practice, the Lease terms, and BLM regulations—that TMM was not entitled to renew its Federal Leases. Under the cover of this profoundly flawed legal opinion, the USFS refused to consent to the renewal of the Federal Leases. BLM, in turn, denied renewal of the Federal Leases. Finally, the Obama Administration issued a notice of the Proposed Withdrawal seeking to prohibit all hardrock mineral development in an area of the SNF which Congress, by special statute in 1950, re-opened to hardrock mineral development. This area inside the SNF is outside the BWCA and the "Mining Protection Area." The Mining Protection Area is a statutorily defined and named buffer area Congress placed around the outer perimeter of the BWCA when it created the BWCA in 1978, some twenty-eight years after opening the SNF to hardrock mining.

### ***Economic Harm Posed by the Obama Administration's Anti-Mining Actions***

The Obama Administration's actions to stop hardrock mining in the SNF blocks the advance of mining projects that will bring thousands of good-paying jobs to northeastern Minnesota, revitalizing a region with an unemployment rate higher than the state and national average. Minnesota needs mining investment. Voters elected the 115th Congress and President Trump

to reverse Obama Administration policies that are sure to lead to economic decline. The Proposed Legislation does just that.

TMM has invested approximately \$400 million in acquisition, exploration, environmental baseline studies, prefeasibility studies, and related work to begin to define the future development of the copper-nickel-platinum group metals (cu-ni-pgm) resource. This \$400-million investment has identified more than \$40 billion of in-ground cu-ni-pgm value on the Federal Lease lands, and another \$90 billion of cu-ni-pgm value on adjacent federal, state, and private lands. TMM has risked its finances and resources (not the federal government) to discover, define, and begin preliminary development activities on this world class cu-ni-pgm strategic mineral resource the benefits of which will inure as much to the federal government (royalties), the local communities of northern Minnesota (state school trust fund taxes), greater Minnesota (royalties), and the U.S. economy overall, as to TMM.

Conversely, the Obama Administration's decision to summarily terminate TMM's two Federal Leases means TMM is deprived of its right to recoup its \$400-million investment in the Federal Lease lands and its adjacent federal, state, and private lands – leaving the \$130 billion of strategic mineral resource TMM created in the ground. If TMM's Federal Lease lands are closed to mining, the contained-in cu-ni-pgm value of TMM's state and private mineral lands is substantially diminished because it is the location and geometry of the cu-ni-pgm resource on the Federal Lease lands that improves the mineability of the state and private lands.

***The Proposed Legislation Preserves USFS and BLM Plenary Authority To Protect and Conserve Special SNF Lands.***

The Legislation does not alter BLM's and USFS' absolute authority to, in their sole discretion, deny issuance of prospecting permits. This authority enables both BLM and USFS to protect those areas of the SNF that they consider to be inappropriate for mining activities or inconsistent with the USFS' SNF Forest Plan. Incidentally, TMM's federal, state, and private leases and federal prospecting permits are all located in an area in the SNF in which the SNF Forest Plan considers mining to be a "desired condition."

The Legislation also makes it easier for mining companies like TMM to protect the environment. Specifically, the Legislation permits a mining company to incorporate the use of off-Lease federal lands into its draft MPO. As applied to TMM, this Legislation will allow it to obtain, where necessary and appropriate, infrastructure rights of way over off-lease federal land that will enable it to transport ore, tailings, and/or other waste rock material from the mine area to locations outside the SNF and other sensitive areas like the Rainy River Watershed for processing and long-term disposal.



***Renewing TMM's Federal Leases Will Not Negatively Impact the BWCA.***

The Legislation will renew TMM's two Federal Leases, consistent with the BLM's and USFS' course of conduct over the past 65 years, the terms and conditions of the two Leases, and BLM's hardrock mining regulations. Renewing TMM's Leases, as has been done twice since 1989, simply extends TMM's mineral tenure rights under the Leases for another 10 years. The Leases do not, by themselves, authorize TMM to develop, mine, or otherwise extract the cu-ni-pgm minerals without the prior approval of the BLM. Nor do the Leases allow TMM to enter the Lease lands to undertake any type of intrusive activity (e.g., exploration, in-fill, or hydrologic monitoring well drilling) without the prior written approval of BLM. The fact is, except for "casual use" activities (e.g., walking and surveying the Lease lands), all activities proposed to be undertaken on the Lease lands, including any proposed mining plan, are first subject to an appropriate level of National Environmental Policy Act ("NEPA") environmental review and the TMM must obtain all necessary environmental permits. This process often requires significant time and regulatory involvement typically taking years from the date TMM proposes a drilling program on Lease and off-Lease lands to the date TMM is authorized to implement the drilling program.

Under the Leases, before TMM can actually start mining, TMM must first prepare what is referred to as a Mine Plan of Operation ("MPO"). An MPO is, in effect, a draft mine permit application that is filed with the BLM for its review and approval. BLM is authorized to revise the detailed proposed mine plan to ensure that TMM's final mine plan, as reflected and approved in the MPO, adequately protects the environment. TMM's filing of the draft MPO with BLM triggers the commencement of the preparation of a full blown NEPA Environmental Impact Statement ("EIS"). USFS will be significantly involved in the preparation and completion of the EIS and therefore will have extensive opportunity to make sure that the SNF's surface resources and the wilderness qualities of the BWCA are adequately protected. All relevant federal and state agencies will be involved in the preparation of the EIS. As part of the EIS process, the public and other interested stakeholders will also have ample opportunity to review and comment on the draft MPO.

Upon the completion of the EIS, TMM is required to obtain state and federal environmental and operating permits. Today, the federal and state government, including the USFS, have powerful tools at their disposal to protect the environment. Under NEPA, the Clean Water Act, the Clean Air Act, and other federal and state environmental statutes, the government can prevent the release of pollutants into the environment.

Furthermore, the average period of time between the date a company files a draft MPO and the date it receives the final approval authorizing it to commence construction of its proposed mine

plan, exceeds 7-10 years – excluding litigation. During this period of time it is not unusual for the project proponent to spend many tens of millions of dollars reimbursing the federal and state government for the time and effort they spend completing the project EIS and issuing the 30 or more environmental, construction, and operating permits.

***The Legislation Is Consistent With The Federal Mineral Leasing Scheme Congress Established Over 100-Years Ago.***

Hardrock mineral development is, by nature, economically risky, difficult, time-consuming, and expensive. No reasonable party will risk the significant expenditure of time and money in endeavoring to discover a valuable deposit of hardrock minerals on unexplored federal land only to have the federal government deny that party a long-term mineral tenure right to mine the valuable deposit it discovered to recoup costs and make a reasonable profit. Therefore, any mineral regulatory framework for federal hardrock minerals requires fair access to public lands for exploration and development, secure mineral tenure to incentivize and reward the prospector and allow the future investment required for developing a mine proposal, clear roles and discretionary limits for the governing agencies, and access to off-lease areas to allow the most effective development of these resources with the least impact. Congress has always known this and created legislation responsive to these demands and needs.

Dating back to 1872, the lynchpin of federal mineral law in the United States has been to incentivize private industry to take the financial risk associated with discovering and developing mineral deposits on unexplored federal lands. Under the General Mining Law of 1872 (“GML”), if a prospector discovers a previously unknown valuable mineral deposit on federal lands it is rewarded with entitlement to fee title ownership to the land.<sup>1</sup> This reward incentivizes mineral developers to explore federal lands for minerals for the benefit of the federal government. The risk the prospector takes is that if it fails to discover a valuable deposit it alone is responsible for all costs it has spent exploring the federal land.

In 1920, Congress enacted the Mineral Leasing Act of 1920 (“MLA”). The reward Congress gave to a successful prospector was not an entitlement right to fee title to the land but instead an entitlement right to a federal lease and, for minerals that were difficult to extract, the right to renewal of that lease until all minerals on the federal lands were extracted (hereinafter, referred to as “Mineral Entitlement Program”). Congress referred to this type of lease as an indeterminate preference right lease. The MLA gave BLM the authority to implement the

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<sup>1</sup> Ostensibly, the GML still allows developers to acquire fee title to federal lands where they discover a valuable deposit. Since 1994, however, Congress has imposed annual moratoria on transferring fee title under the GML. See, e.g., Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, § 404(a), 131 Stat. 135 (2017).

mineral entitlement program without first obtaining the consent of the surface management agency; e.g., USFS. The MLA applied to minerals on federal “public domain” lands.

In 1947, Congress enacted the Mineral Leasing Act for Acquired Lands (“MLAAL”). The primary difference between the MLAAL and the MLA is that under the MLAAL Congress required BLM to obtain the consent of the surface management agency (e.g., USFS) before implementing the Mineral Entitlement Program. In the context of hardrock mineral leasing in the SNF, the significance of the leasing program under the MLAAL is that Congress understood that USFS can exercise consent authority over the development of minerals on the federal lands it manages without denying a prospector its entitlement rights under the MLAAL’s Mineral Entitlement Program. In practice, this requires that USFS (like BLM) exercise its consent authority at the beginning of the mineral development process before prospecting permits are issued. Once prospecting permits are issued with the consent of the USFS and BLM, however, the MLA’s and MLAAL’s Mineral Entitlement Program dictates that a prospector is entitled to a preference right lease if it discovers a valuable mineral deposit. Under the MLAAL, for USFS to take the position that it has continuing consent authority throughout the mineral development process; e.g., that it has the authority to deny a lease to a prospector that has discovered a valuable deposit, is both unwarranted and unlawful. The Proposed Legislation is a special mining statute that creates a mineral leasing program that should be similar in practice to the MLA and the MLAAL.

The Proposed Legislation creates a MLA-like mineral leasing program in the SNF. Specifically, with respect to all federal hardrock minerals in the SNF, the Legislation gives BLM plenary consent authority over whether or not prospecting permits are issued within the SNF (outside the BWCA and Mine Protection Area); however, once USFS and BLM agree to issue a prospecting permit, all valuable hardrock minerals discovered on the lands subject to the permit are managed under Congress’ Mineral Entitlement Program.

### ***Current Regulatory Status of Hardrock Minerals in the SNF.***

Three years after Congress enacted the MLAAL, it enacted special statute 16 U.S.C. § 508b (“508b”). Special statute 508b is a one paragraph statute, which applies exclusively to hardrock minerals located on “public domain” lands within the SNF. Special statute 508b was necessary for two reasons: first, 508b expressly reversed the government’s previous decision to withdraw these minerals from development within the SNF; and second, Congress was expressly concerned about the renewability of mineral tenure rights within the SNF. Special statute 508b, like the MLAAL, gave BLM authority to manage the development of hardrock minerals on public domain lands within the SNF subject to the consent of the USFS. Following the enactment of 508b, BLM regulated the hardrock minerals in the SNF pursuant to a Mineral Entitlement Program.

The SNF is comprised of both “public domain” and “acquired” federal lands. Acquired lands are lands the USFS acquired pursuant to Congress’ authorization under the Weeks Act, 16 U.S.C. § 520. Public domain lands make up the vast majority of federal lands within the SNF. Congress authorized BLM to manage hardrock minerals on acquired lands within the SNF (and other forests across the county) under Reorganization Plan No. 3 of 1946 § 402, 3 C.F.R. 193 (1946 Supp.), reprinted in 5 U.S.C. app. at 604, and in 60 Stat. 1097 (1946) (“Reorg. Plan”). Like 508b, the Reorg. Plan requires BLM to obtain the consent of USFS prior to the development of hardrock minerals.

Soon after Congress enacted 508b, TMM’s predecessor obtained prospecting permits within the SNF and discovered a valuable cu-ni-pgm resource on the subject lands. In 1966, BLM issued the two Federal Leases. Public domain lands make up more than 90% of the federal lands under the Leases. The BLM regulations in effect at the time the two Leases were issued unambiguously regulate public domain lands pursuant to an MLAAL-like Mineral Entitlement Program. BLM regulated acquired lands differently. With respect to acquired lands, USFS and BLM retained authority to deny a prospector a lease even if it discovered a valuable deposit; however, once USFS consented to the issuance of a lease, for minerals that were difficult to manage like hardrock, the lease was an indeterminate preference right lease, i.e., it gave the lessee an entitlement right to renewal of that lease until all minerals were extracted from the property. In addition to the 1966 BLM regulations, the Lease terms and conditions make it clear that they are indeterminate preference right leases.

Over the course of the next 65 years, BLM and USFS acted in accordance with this entitlement right, twice renewing the Leases.

After TMM acquired the Leases from TMM’s predecessor-in-interest, it began massive investments in the project. At the same time, the project’s public profile increased. When TMM applied for the third renewal of the Leases, a small group of environmental activists prevailed on the Obama Administration to deny the renewal. Despite the government’s routine renewal of the Leases over the course of the Leases’ 65-year history, the Obama Administration relied on flawed legal reasoning to deny renewal of the Leases.

The Obama Administration’s conclusion that TMM has no right to renewal of its Leases upends at least a century of Congressional policy. TMM would never have invested \$400 million dollars if it understood that the BLM or the USFS could deny renewal on any grounds other than a irreparable material breach of the leases. If the Obama Administration’s decisions are allowed to stand, TMM will have no ability to recoup its investment without seeking judicial relief. TMM has sued the federal government to reverse the Obama Administration’s arbitrary and unlawful decisions.

The Proposed Legislation makes it clear that hardrock minerals, whether public domain or acquired minerals, will be leased and managed under a Mineral Entitlement Program like that set forth in the MLAAL. The Proposed Legislation provides the certainty of enduring mineral tenure rights needed for developers like TMM to make tens of millions of dollars of investments in hardrock mining in the SNF before they even know they have discovered a valuable mineral deposit.

***The Proposed Legislation Cancels the Obama Administration's Proposed Withdrawal.***

The Legislation is also necessary to reverse the Obama Administration's Withdrawal. In addition to denying TMM's lease renewal, the Obama Administration withdrew over 230,000 acres of mineral lands. The Proposed Withdrawal adversely impacts not just TMM but job creators and residents throughout Northern Minnesota. The Withdrawal would also make it impossible to develop a patchwork of state minerals interspersed with federal minerals, eliminating an important revenue source for the State. In addition to being harmful to Northern Minnesota, the Proposed Withdrawal is unnecessary and contrary to Congressional intent for four reasons.

First, the Proposed Withdrawal upends the delicate balance Congress struck when it created the 1.2 million acre BWCA in 1978. The BWCA Act represented a national compromise between the federal government, state government, industry, and conservationists. Congress prohibited mining in the BWCA and the adjacent Mining Protection Area. The State and industry were concerned that prohibiting mining in over one-million acres of land in the SNF would adversely affect the economy in Northern Minnesota. To address these concerns, Congress directed that resource development intensify outside the BWCA. Congress was fully aware that TMM's two Leases had been issued in 1966 – in fact, the BWCA boundaries skirt the northern edges of the Lease lands.

Second, the Proposed Withdrawal flouts Congress's intent in passing Special statute 508b. Congress enacted special statute 508b to reverse President Roosevelt's withdrawal. The Proposed Withdrawal disregards Congress's intent to eliminate a previous withdrawal.

Third, the Proposed Withdrawal is unnecessary as a practical matter. BLM and USFS can protect the SNF and BWCA through individual leasing decisions. The Proposed Legislation maintains BLM's discretion to deny prospecting permits. Therefore, if BLM believes mineral development is inappropriate in a given area, it can simply refuse to issue prospecting permits. Without a prospecting permit no developer will be able to explore for a valuable deposit and secure a lease. As discussed above, the renewal of TMM's two Federal Leases will also have no impact on the environment. Any activity that TMM proposes to undertake on the Lease lands will be subject to NEPA review by the BLM and USFS and need to have all applicable environmental permits before TMM is authorized to implement the activity.

Fourth, by canceling the Proposed Withdrawal, Congress will confirm that BLM cannot withdraw lands from mineral leasing under the Federal Land Policy Management Act ("FLPMA"). FLPMA defines "withdrawal" as "withholding an area of Federal lands from settlement, sale, location, or entry, under some or all of the general land laws." 43 U.S.C. § 1702(j). This combination and sequence of terms has a very specific meaning, and the United States Supreme Court has held that "settlement, location, sale, or entry" refers only to mineral "location" under the GML and not mineral leasing. *Udall v. Tallman*, 380 U.S. 1, 5, 19 (1965). It makes sense that Congress would allow agencies to prohibit location under the GML but not under mineral leasing laws. In contrast to mineral leasing laws, short of withdrawal, agencies have no ability to prevent prospecting for, or development of, minerals under the GML. The Proposed Legislation recognizes this distinction and prohibits the Obama Administration's unlawful Withdrawal.

### Conclusion

We again thank you for your assistance in advancing this important Legislation. The Obama Administration's decisions have caused significant hardship to TMM. Without secure mineral tenure rights, TMM cannot continue with the investments it has made in its projects. The Proposed Legislation will restore this certainty. The Legislation is consistent with 100 years of federal mineral policy. Congress enacted special statute 508b because it wanted a special regulatory environment for the SNF. This legislation preserves that special status and fixes issues pertaining to its application. In so doing, the Proposed Legislation reestablishes a regulatory environment that provides appropriate incentives for investors and prospectors by rewarding them for the risks they incur in exploring for minerals and investments they make in characterizing a deposit. The Legislation is also fair to conservationists, by maintaining USFS consent authority, where appropriate, adequately protecting the use of all public resources in the SNF and maintaining strong environmental protections for the BWCA.

Sincerely:

A handwritten signature in blue ink that reads "Kevin L. Baker".

Kevin L. Baker  
Vice President, Legal Affairs