

**Minnesota
Environmental
Partnership**



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July 10, 2017

Congressman Rob Bishop
Chair, House Natural Resources Committee
123 Cannon Building
Washington, D.C. 20515

Congressman Tom McClintock
Chair, Federal Lands Subcommittee
2312 Rayburn House Office Building
Washington, D.C. 20515

Congressman Raúl Grijalva
Ranking Minority Member, House Natural Resources Committee
1511 Longworth House Office Building
Washington, D.C. 20515

Congresswoman Colleen Hanabusa
Ranking Minority Member, House Natural Resources Committee
422 Cannon House Office Building
Washington, D.C. 20515

Re: HR 3115

Dear Representatives Bishop, McClintock, Grijalva, and Hanabusa:

The undersigned organizations and our members are writing to ask you to oppose HR 3115, “A bill to provide for a land exchange involving Federal land in the Superior National Forest in Minnesota acquired by the Secretary of Agriculture through the Weeks Act, and for other purposes.” The bill is scheduled for hearing in the House Committee on Natural Resources, Subcommittee on Federal Lands on Friday, July 14. As explained below, we also request that the Committee and Subcommittee not take action on the bill until it receives a cost estimate from the Congressional Budget Office.

The land exchange that would be compelled by HR 3115 involves 6,650 acres of Superior National Forest land that would be traded to PolyMet Mining Inc. for the construction of an open-pit copper-nickel mine. The federal lands are located in the Lake Superior Basin, upstream of the St. Louis River, the largest U.S. tributary to Lake Superior, and upstream of the Fond du Lac reservation and the city of Duluth.

This land exchange is opposed by a great number of Minnesotans and people across the country. Twenty-two thousand citizens took the time to submit objections to the U.S. Forest Service during the public comment period for the Draft NorthMet Project Land Exchange Record of Decision. The Superior National Forest is highly treasured by the American people, and the portion of the Forest that is being traded away is far more valuable than might be assumed on reading the text of HR 3115. The thousands of acres of wetlands that would be affected by the proposed land exchange have been described as an “Aquatic Resource of National Importance” by the U.S. Environmental Protection Agency. The land includes an ecosystem that is designated as “imperiled-vulnerable” in Minnesota, and most of the site has been rated as an area of “high biodiversity” significance by the Minnesota Biological Survey. The land is designated critical habitat for the threatened Canada lynx, gray wolf, and northern long-eared bat. It includes nesting sites for northern goshawks and great grey owls; the entire Forest contains only a handful of other nesting sites for these very rare birds.

The undersigned groups believe that federal laws protecting public lands and resources were violated in agency decisions on the PolyMet land exchange. Several of our groups have filed lawsuits in Minnesota federal court to ensure that these laws will protect resources and taxpayers as intended.

Two of those lawsuits question the valuation of the land that will be traded to PolyMet. The court records show that if PolyMet was buying this land from a private land owner, it would be paying significantly more for it. PolyMet and the Forest Service kept the appraisal unrealistically low (\$550 per acre) by telling the appraiser to ignore the potential for mining-related uses of the site and to value the site only for timber. Evidence in expert reports filed with the court shows that northern Minnesota surface lands have recently been purchased by mining companies from private landowners for an average price ranging from \$1,645 to \$3,885 per acre.

The undersigned groups thus request a Congressional Budget Office (CBO) cost estimate for HR 3115 before this bill is considered in committee or subcommittee. In other matters involving land exchanges, the CBO has underscored the fact that if federal land sought by a private company has a higher value than the property that the company has offered for exchange, the company would need to contribute additional land or make an appropriate payment to the U.S. Treasury. Given the large (6,650 acre) parcel involved and the discrepancies between the appraisal adopted in HR 3115 and the valuation reflected in the private market, HR 3115 could cost the United States many millions of dollars. We also request that evidence from private land sales to mining companies in northern Minnesota be provided to the CBO, and we would be pleased to submit the pertinent reports.

The determination as to whether the valuation of federal lands for the PolyMet land exchange meets the requirements of the Federal Land Policy and Management Act belongs in federal court. Taking that question out of the court’s hands would not only cheat taxpayers in this particular case, but would send the message that a corporation with its eye on federal property may not have to pay what the land is worth if it can garner enough political support.

We are equally concerned that HR 3115 attempts to undermine the Endangered Species Act. A lawsuit filed by several of the undersigned groups asks the court to determine whether the U.S. Forest Service and Fish and Wildlife Service complied with the Endangered Species Act in approving the land exchange. The proposed land exchange and mine project would authorize the destruction of designated critical habitat and “incidental taking” of the threatened Canada lynx, gray wolf and northern long-eared bat, without providing adequate mitigation measures.

We also point out that this land was purchased under the Weeks Act, which provides for the purchase of land to protect rivers and streams. The Partridge River, which runs through the land, will be degraded—perhaps severely--by the activities for which the land is being traded away. Of what value is purchasing land to protect watercourses if that land is to be traded away for destruction at the request of a corporation?

These laws were intended to provide a uniform backdrop for the entire country when a land exchange or other agency action affecting public lands is proposed. The judiciary is the appropriate place to determine questions of fact and law and decide whether legal requirements have been followed or breached.

Finally, it is important to understand that there is no urgency requiring Congress to act before the Minnesota federal court has rendered its decisions. Neither the State of Minnesota nor the Army Corps of Engineers has granted any permits for the PolyMet mine project, and neither jurisdiction has even proposed draft permits for public review. No public interest is served by enacting legislation to compel a land exchange that may undervalue public lands, shortchange taxpayers, and harm listed species in violation of the Endangered Species Act.

Please contact Steve Morse (stevemorse@mepartnership.org), Executive Director of the Minnesota Environmental Partnership for further information or requests for documentation.

Sincerely,



Executive Director
Minnesota Environmental Partnership

Alliance for Sustainability
Center for Biological Diversity
Clean Water Action – MN
Conservation Congress*
Deer Tail Press, LLC – Duluth, MN*
Duluth Audubon Society
Friends of the Boundary Waters Wilderness
Friends of the Cloquet Valley State Forest
Friends of the Land of Keweenaw*

(continued on the back)

Friends of Minnesota Scientific and Natural Areas
Information Network for Responsible Mining*
Izaak Walton League – Minnesota Division
Mankato Area Environmentalists
Mining Impact Coalition of Wisconsin*
MN Center for Environmental Advocacy
MN350
Renewing the Countryside
RESTORE: The North Woods*
Save Lake Superior Association
Save Our Sky Blue Waters
Sequoia ForestKeeper
Sierra Club North Star Chapter
The Lands Council*
Voyageurs National Park Association
WaterLegacy
Wetlands Action Group*
WildEarth Guardians*
Wilderness Watch
Wisconsin Resources Protection Council*
Yellowstone to Uintas Connection*

*denotes not an MEP member group

CC: Rep. Rick Nolan, Sen. Al Franken, Sen. Amy Klobuchar, Rep. Keith Ellison, Rep. Tom Emmer,
Rep. Jason Lewis, Rep. Betty McCollum, Rep. Erik Paulsen, Rep. Collin Peterson, Rep. Tim Walz