

For Immediate Release

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SAVE THE BOUNDARY WATERS

State appeals court upholds lawsuit challenging Minnesota's copper mining rules near the Boundary Waters

Decision today upholds a lower court ruling affirming Northeastern Minnesotans for Wilderness' standing to challenge state's nonferrous mining rules for risky mining near the Boundary Waters

(ELY, MN)-- Today the Minnesota Court of Appeals upheld a Northeastern Minnesotans for Wilderness (NMW) lawsuit challenging the adequacy of the state's nonferrous mining rules. The lawsuit, brought under the Minnesota Environmental Rights Act (MERA), contends Minnesota's mine siting rules fail to protect the Boundary Waters from the toxic pollution endemic to sulfide-ore copper mining. The finding that NWM met the burden of proof required for a review of the adequacy of the state's rules was not challenged by the Minnesota Department of Natural Resources (DNR), the defendant in the lawsuit. However, NMW's standing to bring the lawsuit was challenged by Chilean mining conglomerate subsidiary Twin Metals Minnesota, an intervenor in the lawsuit. A lower court previously affirmed NMW's standing and directed the DNR to begin a review of the state's mine siting rules. That process began in November with a public comment period that recently closed on December 9. Today's decision will allow that process to continue.

"The Boundary Waters is a national and state treasure," said Becky Rom, National Chair of the Campaign to Save the Boundary Waters. "Today's strong legal decision by the Minnesota Court of Appeals clears the way for a much needed

examination by the state of whether the nation's most toxic industry should be allowed in the same watershed as America's most visited Wilderness."

The Minnesota Pollution Control Agency completed a water quality assessment of the Rainy River Headwaters in 2017 and found the waters to be exceptionally clean and immaculate and urged that additional protections be afforded to the watershed. Twin Metals Minnesota - the wholly owned subsidiary of Chile's Antofagasta - proposes to build a massive copper - nickel mine in the Rainy River Headwaters which includes, among other destructive features, a 430 acre toxic tailings storage facility on shores of Birch Lake immediately upstream of the Boundary Waters and threatening the high water quality of the Wilderness and the Rainy River Headwaters.

NMW asserts that the DNR siting rule should be amended to prohibit nonferrous mining in the Rainy River Headwaters altogether as the only way to protect the Boundary Waters from pollution, damage, or destruction.

With legal representation by Ciresi Conlin LLP, NMW [challenged the state's non-ferrous mining rules](#) pursuant to Section 10 of the Minnesota Environmental Rights Act (MERA) on June 24, 2020. The lawsuit alleges that the [current mining rules](#) - adopted 29 years ago - fail to protect the Boundary Waters and the Rainy River Headwaters. The current rules allow for sulfide-ore mining in the upstream half of the Rainy River Headwaters, next to and outside of the Boundary Waters. Polluted waters from sulfide-ore copper mining in the upstream half of the Rainy River Headwaters would flow directly into the Boundary Waters and also put at risk the downstream protected areas of the Quetico Provincial Park and Voyageurs National Park. This is the first-ever lawsuit of its kind brought under Section 10 of MERA ([Minn. Stat. Chapter 116B.10](#)).

At the federal level the Biden Administration filed an application for a ban on mining on federal lands in the Wilderness watershed and is currently reviewing multiple legal challenges to Twin Metals lease renewals. There is currently both state and federal legislation introduced that would permanently protect the Boundary Waters from the threat of sulfide-ore copper mining.

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