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The Boundary Waters Canoe Area Wilderness is threatened by sulfide-ore copper mining.

Any sulfide-ore copper mining in the watershed of the Boundary Waters would cause irreparable damage to America's most visited Wilderness.

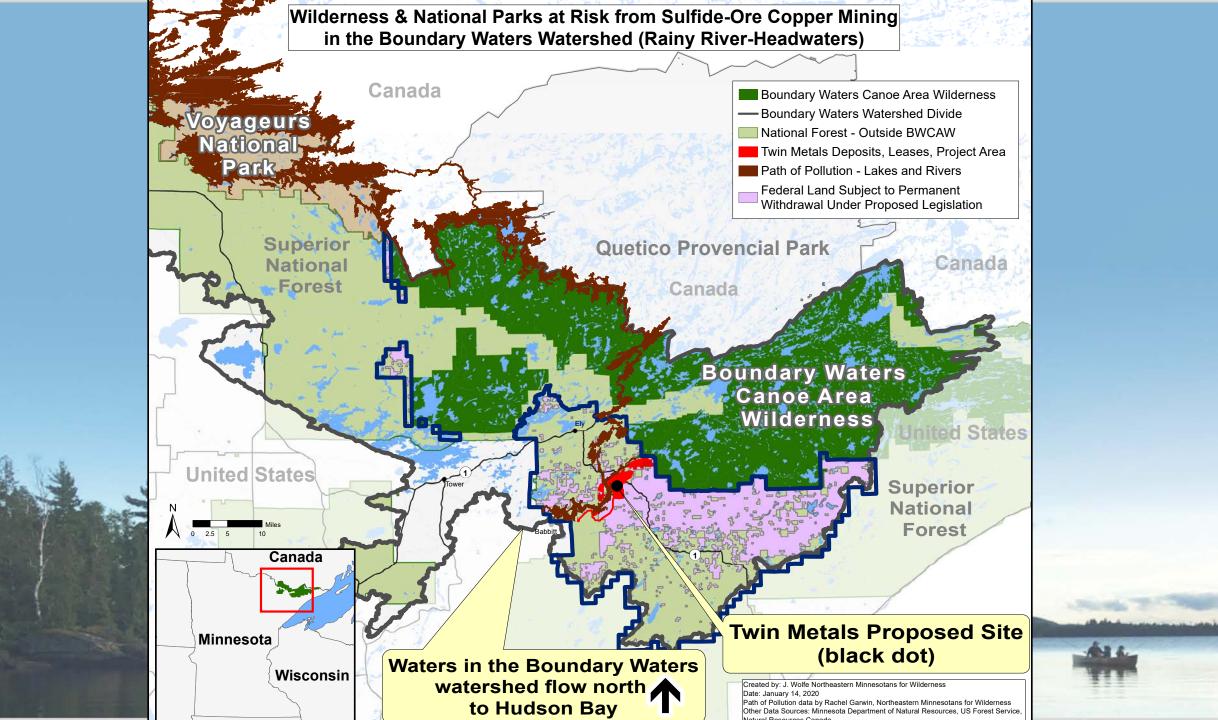
A Brief History

- **1854** Treaty of La Pointe with Lake Superior Chippewa
- **1909** Superior National Forest was established
- **1909** Boundary Waters Treaty signed by Canada and the U.S., requiring that neither country pollute the waters of the other country
 - **1964** Wilderness Act establishes the National Wilderness Preservation System and designates the Boundary Waters Canoe Area Wilderness

Mineral Exploration Begins

- **1966** Bureau of Land Management issues 2 mineral leases in the headwaters of the Boundary Waters to INCO, a predecessor of Twin Metals Minnesota
- 1978 Boundary Waters Wilderness Act bans mining within the Wilderness and on 220,000 acres of surrounding Superior National Forest lands and provides for measures to maintain high water quality and to minimize to the maximum extent possible the environmental impacts associated with mineral development
 - **1989** Two mineral leases renewed for 10 years; never developed
 - **2004** Two mineral leases renewed for 10 more years; never developed
 - **2012** Twin Metals applies for a third 10-year renewal; Campaign to Save the Boundary Waters is launched by Northeastern Minnesotans for Wilderness







Initial Public Processes are Launched to Consider Renewal

- March 2016 Hilary Tompkins, solicitor of Department of the Interior, issues a legal opinion finding that the BLM has discretion to grant or deny the Twin Metals' lease renewal application
- December 2016 Forest Service completes 2-year environmental review, concludes that sulfide-ore copper mining in the Rainy River Drainage
 Basin poses an unacceptable risk of harm to the Boundary Waters, resulting in damage that cannot be mitigated or fixed, and withholds
 Consent to Twin Metals' lease renewal requests

Victory! The leases are terminated. (But short lived).

- **December 2016** Twin Metals leases are denied renewal, and the leases expire
- January 2017 Forest Service files an application to withdraw 234,328 acres of Superior
 National Forest lands in the watershed of the Boundary Waters from mineral leasing & development for 20 years; Donald Trump becomes President and unwinding begins
- August 2017 Forest Service receives more than 125,000 public comments on the proposed withdrawal, and 98.2% of these favored the withdrawal
 - **February 2018** Forest Service announces it will downgrade its full environmental impact statement to a shorter environmental assessment; 30-day comment period yields 56,000 citizen comments supporting the 20-year mineral withdrawal

The New War Against Public Lands, Science, & Public Participation Ensnares the Boundary Waters

- December 22, 2017 Daniel Jorjani, acting Principal Deputy Solicitor of the Department of the Interior, issues a legal opinion reversing the Tompkins legal opinion, stating that the BLM lacked discretion to deny the Twin Metals' lease renewal application
- May 2, 2018 BLM reinstates expired Twin Metals leases
- September 6, 2018 the withdrawal study is abruptly cancelled, 20 months into the 24-month process; Forest Service refuses to release reports
- May 15, 2019 BLM renews two mineral leases for Twin Metals
- Dec. 18, 2019 Twin Metals files applications for mine permits
- June 30, 2020 BLM publishes Notice of Intent to prepare an environmental impact statement on Twin Metals mine

Environmental Review of a Twin Metals Mine

- Two environmental reviews:
- Federal EIS led by the Bureau of Land Management
 - Notice of Intent to Proceed published June 30th
 - Scoping and public input has not started
 - Radical change in regulations governing environmental review: NEPA
- State EIS led by the Minnesota Department of Natural Resources
 - In June, the DNR notified Twin Metals that its mine plan submittal was incomplete
 - The DNR proceeds with mine plan review

Lawsuits are one way we are fighting back.

With both a state and five federal lawsuits, the Campaign to Save the Boundary Waters is working on all levels to save this quiet place from permanent destruction.

6 LAWSUITS TO PROTECT THE BOUNDARY WATERS

Ongoing Lawsuits to Protect the Boundary Waters

- Federal Lawsuit #1 Reinstatement of Mining Leases
 - Federal Lawsuit #2 Renewal of Mining Leases
 - Federal Lawsuit #3 Mineral Withdrawal (Mining Ban) Cancellation
 - Freedom of Information Act Requests

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- Federal Lawsuit #4 Extension of Prospecting Permits
- **State Lawsuit** Challenge to Minnesota Rules that Fail to Protect the Boundary Waters
- NEPA Lawsuit Challenge to NEPA Regulations

Federal Lawsuit #1 — Reinstatement of Leases

Lawsuit challenges the 2018 reinstatement of two expired federal mineral leases that had been terminated in 2016

- Plaintiffs: Northeastern Minnesotans for Wilderness, The Wilderness Society, 9 Minnesota outdoor recreation businesses, 3 additional conservation groups
- Plaintiffs are represented pro bono by 3 law firms
- Two Twin Metals mineral leases were reinterpreted by the top attorney at the Interior Department to require a mandatory third renewal
- Defendants are the Department of the Interior and BLM
- Twin Metals intervened on the side of the defendants
- In March 2020, US District Court Judge ruled in favor of the defendants and found the revised legal interpretation reasonable
- In April 2020 plaintiffs appealed to the US Court of Appeals for the DC Circuit
- If successful, the reinstatement of the two Twin Metals leases would be deemed invalid and the leases would be terminated

Federal Lawsuit #2 — Renewal of Leases

Lawsuit challenges the 2019 renewal of two federal mineral leases that were reinstated in 2018

- Plaintiffs: Northeastern Minnesotans for Wilderness, The Wilderness Society, 9 Minnesota outdoor recreation businesses, 3 additional conservation groups
- Plaintiffs are represented pro bono by 3 law firms
- As part of the renewal process, the BLM issued an inadequate environmental assessment that failed to consider any science; failed to consider impacts of copper mining near the BWCAW; failed to do an EIS; and provided for a short public comment during the year-end and federal government shutdown
- The Forest Service granted consent to the lease renewals and all future renewals without any consideration of science, impact on the BWCAW, or its own 2016 decision rejecting these same renewals
- Defendants are the Departments of the Interior and Agriculture, the BLM, and the Forest Service
- Twin Metals intervened on the side of the defendants
- If successful, the 2019 Forest Service consent would be invalid and the renewed leases would be set aside

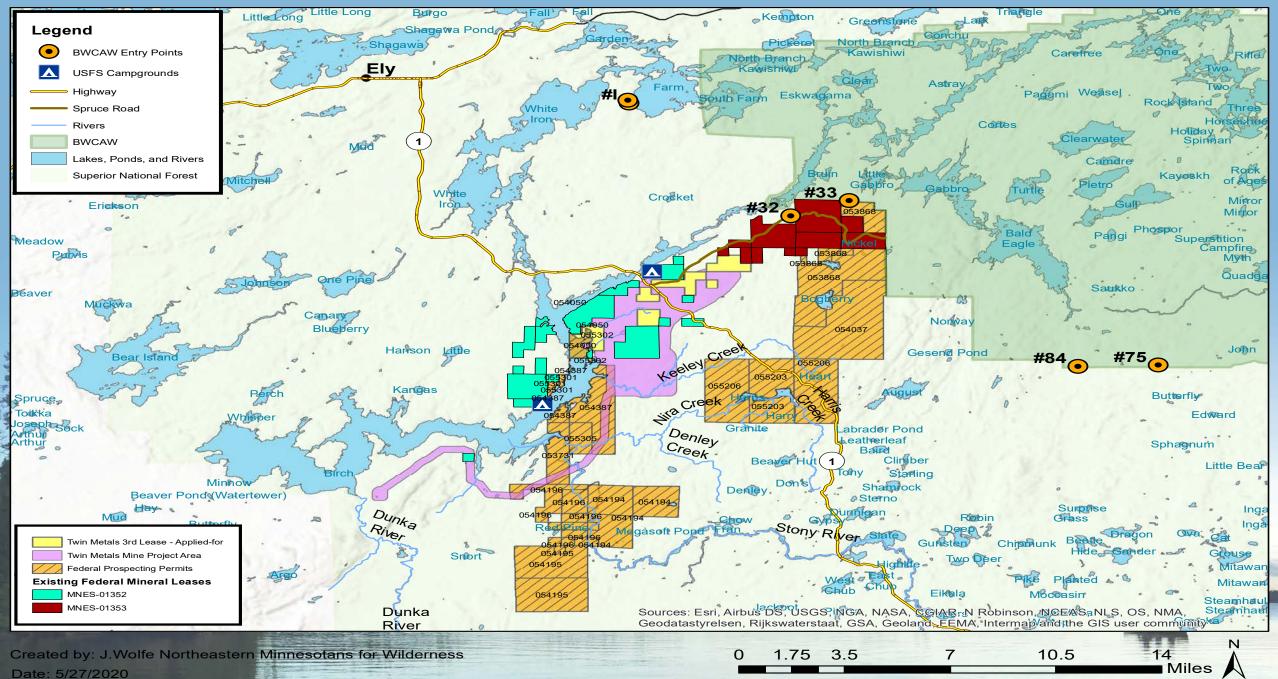
Federal Lawsuit #3 — Mineral Withdrawal (Mining Ban) Cancellation - Freedom of Information Act Requests

- Lawsuit challenges the withholding of key documents requested under the Freedom of Information Act
- Plaintiff: The Wilderness Society
- Plaintiff represented by two public interest lawyers who specialize in transparency
- In January 2017, the Forest Service applied for a 20-year mining withdrawal (ban) for 234,328 acres of Superior National Forest lands from the federal mining program; this launched environmental review of the mining ban
 - In September 2018, the Department of Agriculture abruptly cancelled the environmental review, citing an exhaustive environmental assessment and reports The EA and reports have not been released despite requests by U.S. Senators and U.S. Representatives, the State of MN, and the public
- As a result of the lawsuit, a fully redacted version of the EA (cover and 60 pages of black ink) was released
- Current phase of lawsuit challenges the redactions and the failure to release the underlying studies

Federal Lawsuit #4 — Renewal of Prospecting Permits

- Lawsuit challenges the May 2020 extension of 13 prospecting permits held by Twin Metals
- Plaintiffs: Northeastern Minnesotans for Wilderness, The Wilderness Society, Center for Biological Diversity
- Plaintiffs are represented pro bono by the Center for Biological Diversity
- The BLM unlawfully issued four-year extensions to 13 prospecting permits without environmental review and without consulting the US Fish & Wildlife Service about impact on imperiled species listed under the Endangered Species Act
- These 13 prospecting permits would expand the Twin Metals footprint by 15,000 acres, including lands immediately adjacent to the Wilderness
- Defendants are the BLM, the Forest Service, and the US Fish & Wildlife Service
- If successful, extensions to the permits would be <u>voided</u> and an environmental review and endangered species consultation would be required before extensions are granted

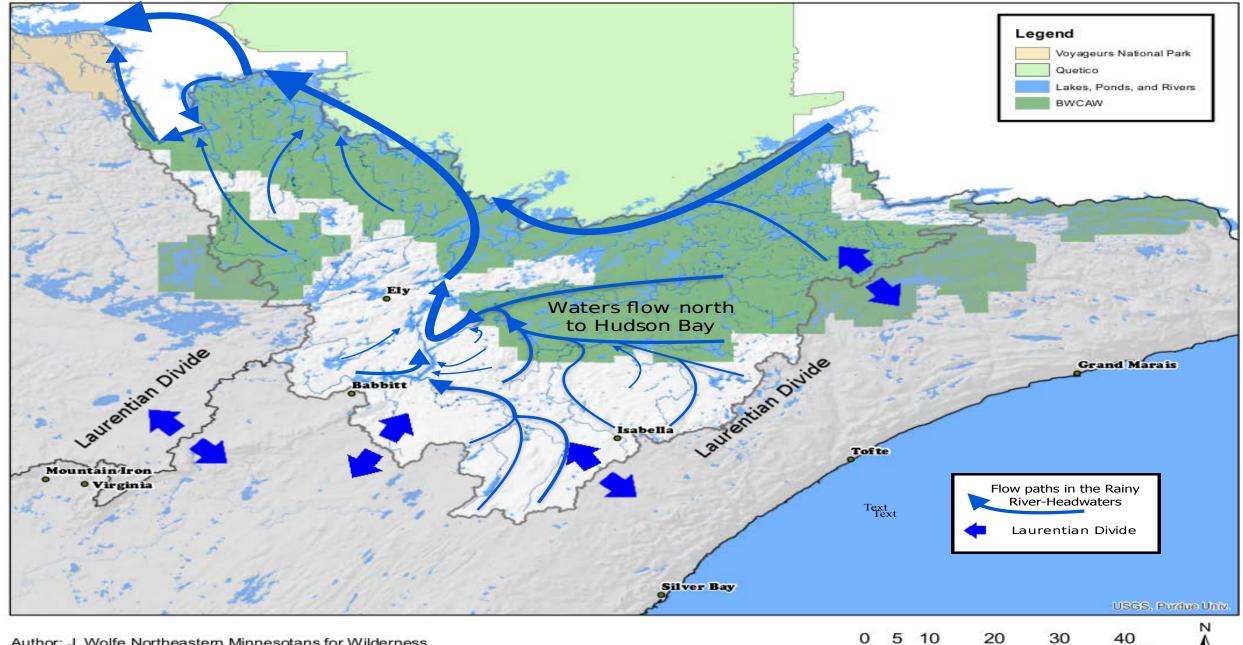
Federal Prospecting Permits Extended by BLM for TMM on 5-1-2020



State Lawsuit — Failure of Minnesota Rules to Protect the Boundary Waters

- Lawsuit challenges the Minnesota Nonferrous Mining Regulations for failure to protect the Boundary Waters
- Plaintiff: Northeastern Minnesotans for Wilderness
- Plaintiff is represented pro bono by Ciresi Conlin law firm
- Defendants are the Minnesota Department of Natural Resources and the DNR Commissioner
- 27-year old Nonferrous Mining Regulations allow copper mining upstream of the Boundary Waters but ban it in the Wilderness
- If successful, the Minnesota Nonferrous Mining Regulations will be amended to prohibit sulfide-ore copper mining in the entire Rainy River Headwaters

Rainy River Headwaters Water Flow



Miles

Author: J. Wolfe Northeastern Minnesotans for Wilderness Date: 6/19/2020 National Environmental Policy Act (NEPA) Lawsuit

NEPA is our Environmental Bill of Rights

Science-based Environmental Analysis

Public Input

Informed Agency Decision-making

National Environmental Policy Act Lawsuit NEPA Under Attack

- White House Council on Environmental Quality (CEQ) regulations govern how over 80 federal agencies comply with NEPA
- The new CEQ regulations finalized in mid-July gutted four decades of NEPA law, policy, and practice, putting polluters first and making it difficult for affected communities to have a say in decisions impacting their health and the environment
- The Twin Metals mine permitting process could be an early and devastating test case for the new CEQ regulations, which would:
 - Allow the company to prepare its own environmental impact statement
 - Require a strict 2-year deadline for completing the study and restrictive page limits
 - Mandate an exceedingly narrow analysis with all roads leading to permitting of the mine and no consideration of long-term impacts associated with water and air pollution and degradation of the Wilderness
 - Impose onerous barriers on public participation and potential limits on judicial review

National Environmental Policy Act (NEPA) Lawsuit Legal Challenge to CEQ Rule

- Lawsuit filed in federal district court in San Francisco, CA on July 29 by The Wilderness Society and a diverse coalition of environmental justice, conservation, public health, and recreation groups represented by Earthjustice and Western Environmental Law Center
 Alleges that CEQ's regulations are unlawful for three main reasons: (1) CEQ failed to consider and disclose significant environmental impacts associated with the rollbacks, in violation of NEPA itself; (2) CEQ failed to explain its decision in light of public comments and other evidence in the record, failed to review the impacts of the rule on advancement of environmental justice, and changed longstanding agency interpretations and practices without adequate justification; and (3) the regulations are inconsistent with the text, structure, and intent of NEPA itself
- 2 other similar challenges to the regulations filed by Southern Environmental Law Center in the southeast and Natural Resources Defense Council in the northeast
- Numerous "as applied" challenges are likely to follow as agencies start to implement the new rules

The Fight for the Wilderness Does Not Stop with Lawsuits



Lawsuits are a Bridge to lead us to Permanent Protection of the Boundary Waters

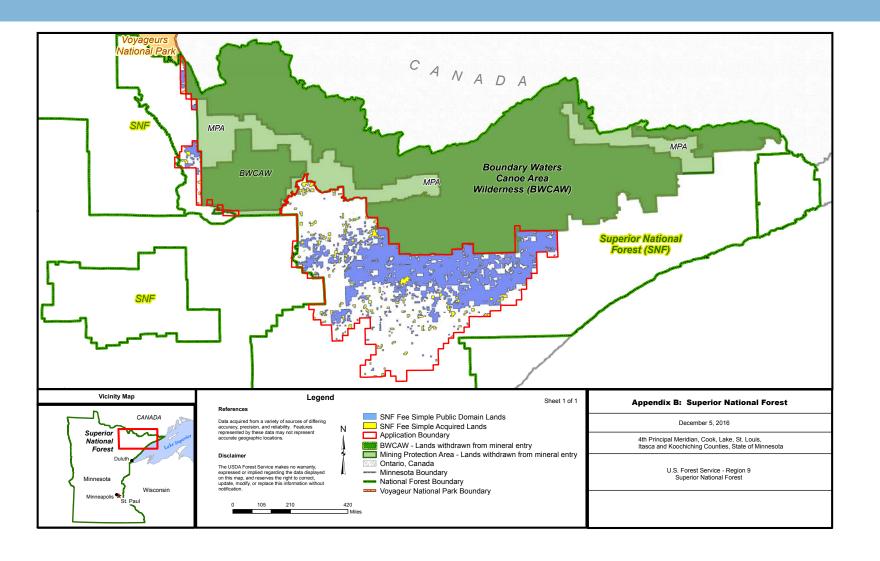
Since 2016, The Campaign to Save the Boundary Waters has been taking a multi-faceted approach to successfully leading the fight to save the Wilderness. Every small step moves us closer to our goal.

Congress: the fight for permanent protection of the Boundary Waters from sulfide-ore copper mining

- Legislation in U.S. House HR 5598 would permanently ban copper mining in the Rainy River Headwaters
 - 48 Sponsors in the House
- Three Appropriation bills passed the U.S. House in June
 - Defunds federal EIS
 - Requires delivery of mineral withdrawal EA and reports
- 20 Oversight Hearings in the U.S. House and U.S. Senate
 - Challenged Twin Metals reversals
 - Demanded Mineral Withdrawal studies and reports



LANDS PROTECTED IN MCCOLLUM BILL





Public Lands Need More Hands to Help Ensure their Protection

More groups continue to join the effort to protect the Boundary Waters Canoe Area Wilderness

Sportsmen for the Boundary Waters

Kids for the Boundary Waters Boundary Waters Business Coalition

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Speak loudly to protect this quiet place.